

TAX RESTRUCTURING REVISIONS

2020 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill amends and enacts provisions related to state and local taxes and revenue.

Highlighted Provisions:

This bill:

- ▶ decreases the corporate franchise and income tax rate and the individual income tax rate;
- ▶ amends the calculation of certain tax credits to match the applicable income tax rate;
- ▶ repeals certain transfers from the General Fund into the Education Fund;
- ▶ modifies the calculation of the Utah personal exemption for purposes of the taxpayer tax credit;
- ▶ enacts a nonrefundable tax credit for social security benefits that are included in the claimant's federal adjusted gross income;
- ▶ provides that an individual who claims the tax credit for social security benefits may not also claim the retirement tax credit on the same return;
- ▶ enacts a refundable state earned income tax credit for certain individuals who are experiencing intergenerational poverty;
- ▶ enacts a refundable grocery tax credit;
- ▶ provides for apportionment of the state earned income tax credit and the grocery tax credit;
- ▶ increases the state sales and use tax rate on food and food ingredients;
- ▶ imposes state and local sales and use tax on amounts paid or charged for certain services;
- ▶ modifies the sales and use tax dedications for the Transportation Investment Fund of 2005;
- ▶ directs a portion of growth in the amount of revenue collected from the sales and use tax on the sale of food and food ingredients be deposited into the Transit and

Transportation Investment Fund;

- ▶ repeals certain sales and use tax exemptions;
- ▶ provides a sales and use tax exemption for certain transactions paid for through a machine that only accepts cash;
- ▶ establishes a repeal date for the sales and use tax exemption for construction materials used in the construction of a new or expanding life science research and development facility;
- ▶ creates a sales and use tax exemption for feminine hygiene products;
- ▶ enacts a sales tax on motor fuel and special fuel other than diesel and an additional excise tax on diesel fuel;
- ▶ increases the state motor vehicle rental tax;
- ▶ provides a repeal date for the program that allows certain clean fuel vehicles to travel in a high occupancy vehicle lane regardless of the number of occupants;
- ▶ directs the Utah Department of Transportation to implement one or more strategies to manage congestion on state highways and to generate highway user fees;
- ▶ requires the Utah Department of Transportation to submit an annual report to a legislative committee regarding the road usage charge program;
- ▶ addresses the requirements for using a high occupancy toll lane;
- ▶ modifies the permissible uses for funds in the Tollway Special Revenue Fund; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2020:

- ▶ to the General Fund, as a one-time appropriation:
 - from the Education Fund Restricted -- Underage Drinking Restricted Account, One-time, \$1,750,000

This bill appropriates in fiscal year 2021:

- ▶ To State Board of Education -- Child Nutrition, as a one-time appropriation:
 - From Education Fund, \$55,500,000.
 - From Dedicated Credits -- Liquor Tax, (\$55,500,000).
- ▶ To State Board of Education -- State Administrative Office, as an ongoing appropriation:

- 64 • From Education Fund, \$2,850,000.
- 65 • From Education Fund Restricted -- Underage Drinking Prevention Program
- 66 Restricted Account, (\$2,850,000).
- 67 ▶ To University of Utah -- Education and General, as an ongoing appropriation:
- 68 • From General Fund, \$101,608,900.
- 69 • From Education Fund, (\$101,608,900).
- 70 ▶ To University of Utah -- School of Medicine, as an ongoing appropriation:
- 71 • From General Fund, \$35,899,500.
- 72 • From Education Fund, (\$35,899,500).
- 73 ▶ To University of Utah -- University Hospital, as an ongoing appropriation:
- 74 • From General Fund, \$1,413,500.
- 75 • From Education Fund, (\$1,413,500).
- 76 ▶ To University of Utah -- School of Dentistry, as an ongoing appropriation:
- 77 • From General Fund, \$2,324,700.
- 78 • From Education Fund, (\$2,324,700).
- 79 ▶ To Utah State University -- Education and General, as an ongoing appropriation:
- 80 • From General Fund, \$73,237,800.
- 81 • From Education Fund, (\$73,237,800).
- 82 ▶ To Utah State University -- USU-Eastern Education and General, as an ongoing
- 83 appropriation:
- 84 • From General Fund, \$12,503,400.
- 85 • From Education Fund, (\$12,503,400).
- 86 ▶ To Weber State University -- Education and General, as an ongoing appropriation:
- 87 • From General Fund, \$91,115,900.
- 88 • From Education Fund, (\$91,115,900).
- 89 ▶ To Southern Utah University -- Education and General, as an ongoing
- 90 appropriation:
- 91 • From General Fund, \$48,726,900.
- 92 • From Education Fund, (\$48,726,900).
- 93 ▶ To Utah Valley University -- Education and General, as an ongoing appropriation:
- 94 • From General Fund, \$117,745,200.

- 95 • From Education Fund, (\$117,745,200).
- 96 ▶ To Snow College -- Education and General, as an ongoing appropriation:
- 97 • From General Fund, \$24,831,900.
- 98 • From Education Fund, (\$24,831,900).
- 99 ▶ To Dixie State University -- Education and General, as an ongoing appropriation:
- 100 • From General Fund, \$38,186,500.
- 101 • From Education Fund, (\$38,186,500).
- 102 ▶ To Utah Department of Transportation -- Joint Highway Committee, as an ongoing
- 103 appropriation:
- 104 • From Transportation Fund, \$5,000,000.

105 **Other Special Clauses:**

106 This bill provides a special effective date.

107 This bill provides contingent retrospective operation.

108 **Utah Code Sections Affected:**

109 AMENDS:

- 110 **15A-1-204**, as last amended by Laws of Utah 2017, Chapter 18
- 111 **26-36b-208**, as last amended by Laws of Utah 2019, Chapters 1 and 393
- 112 **32B-2-301**, as last amended by Laws of Utah 2018, Chapter 329
- 113 **32B-2-304**, as last amended by Laws of Utah 2019, Chapter 403
- 114 **32B-2-305**, as last amended by Laws of Utah 2013, Chapter 400
- 115 **35A-8-308**, as last amended by Laws of Utah 2017, Chapters 181 and 421
- 116 **35A-8-309**, as last amended by Laws of Utah 2019, Chapter 493
- 117 **41-6a-409**, as last amended by Laws of Utah 2017, Chapter 142
- 118 **41-6a-505**, as last amended by Laws of Utah 2019, Chapter 136
- 119 **41-6a-1406**, as last amended by Laws of Utah 2019, Chapter 373
- 120 **41-12a-806**, as last amended by Laws of Utah 2019, Chapter 55
- 121 **53G-10-406**, as last amended by Laws of Utah 2019, Chapter 293
- 122 **59-1-1503**, as last amended by Laws of Utah 2012, Chapter 399
- 123 **59-7-104**, as last amended by Laws of Utah 2019, Chapter 418
- 124 **59-7-201**, as last amended by Laws of Utah 2018, Chapter 456
- 125 **59-7-610**, as last amended by Laws of Utah 2019, Chapter 247

126 **59-7-614.1**, as last amended by Laws of Utah 2016, Chapter 375
127 **59-7-618**, as last amended by Laws of Utah 2017, Chapter 265
128 **59-7-620**, as last amended by Laws of Utah 2017, Chapter 222
129 **59-10-104**, as last amended by Laws of Utah 2018, Chapter 456
130 **59-10-529.1**, as enacted by Laws of Utah 2015, Chapter 369
131 **59-10-1005**, as last amended by Laws of Utah 2017, Chapter 148
132 **59-10-1007**, as last amended by Laws of Utah 2019, Chapter 247
133 **59-10-1017**, as last amended by Laws of Utah 2017, Chapter 389
134 **59-10-1017.1**, as enacted by Laws of Utah 2017, Chapter 389
135 **59-10-1018**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 3
136 **59-10-1019**, as renumbered and amended by Laws of Utah 2008, Chapter 389
137 **59-10-1022**, as enacted by Laws of Utah 2008, Chapter 389
138 **59-10-1023**, as enacted by Laws of Utah 2008, Chapter 389
139 **59-10-1028**, as last amended by Laws of Utah 2012, Chapter 399
140 **59-10-1033**, as last amended by Laws of Utah 2017, Chapter 265
141 **59-10-1035**, as last amended by Laws of Utah 2017, Chapter 222
142 **59-10-1105**, as last amended by Laws of Utah 2016, Chapter 375
143 **59-10-1403.3**, as enacted by Laws of Utah 2017, Chapter 270
144 **59-12-102**, as last amended by Laws of Utah 2019, Chapters 325, 481, and 486
145 **59-12-103**, as last amended by Laws of Utah 2019, Chapters 1, 136, and 479
146 **59-12-104**, as last amended by Laws of Utah 2019, Chapters 136 and 486
147 **59-12-104.5**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
148 **59-12-1201**, as last amended by Laws of Utah 2016, Chapters 184 and 291
149 **59-13-202**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
150 **63I-2-259**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
151 **63I-2-272**, as last amended by Laws of Utah 2019, Chapters 136 and 246
152 **63M-4-702**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
153 **72-1-201**, as last amended by Laws of Utah 2019, Chapter 431
154 **72-1-213.1**, as enacted by Laws of Utah 2019, Chapter 479
155 **72-2-120**, as last amended by Laws of Utah 2018, Chapter 269

156 **72-2-124**, as last amended by Laws of Utah 2019, Chapters 327 and 479

157 **72-6-118**, as last amended by Laws of Utah 2018, Chapter 269

158 **72-9-603**, as last amended by Laws of Utah 2019, Chapter 373

159 ENACTS:

160 **35A-9-214**, Utah Code Annotated 1953

161 **59-10-1041**, Utah Code Annotated 1953

162 **59-10-1102.1**, Utah Code Annotated 1953

163 **59-10-1113**, Utah Code Annotated 1953

164 **59-10-1114**, Utah Code Annotated 1953

165 **59-12-130**, Utah Code Annotated 1953

166 **59-13-323**, Utah Code Annotated 1953

167 **63I-2-241**, Utah Code Annotated 1953

168 REPEALS:

169 **53F-9-304**, as last amended by Laws of Utah 2019, Chapter 186

170 **59-12-104.4**, as enacted by Laws of Utah 2011, Chapter 314

171

172 *Be it enacted by the Legislature of the state of Utah:*

173 Section 1. Section **15A-1-204** is amended to read:

174 **15A-1-204. Adoption of State Construction Code -- Amendments by commission**

175 **-- Approved codes -- Exemptions.**

176 (1) (a) The State Construction Code is the construction codes adopted with any
177 modifications in accordance with this section that the state and each political subdivision of the
178 state shall follow.

179 (b) A person shall comply with the applicable provisions of the State Construction
180 Code when:

181 (i) new construction is involved; and

182 (ii) the owner of an existing building, or the owner's agent, is voluntarily engaged in:

183 (A) the repair, renovation, remodeling, alteration, enlargement, rehabilitation,
184 conservation, or reconstruction of the building; or

185 (B) changing the character or use of the building in a manner that increases the
186 occupancy loads, other demands, or safety risks of the building.

(c) On and after July 1, 2010, the State Construction Code is the State Construction Code in effect on July 1, 2010, until in accordance with this section:

- (i) a new State Construction Code is adopted; or
- (ii) one or more provisions of the State Construction Code are amended or repealed in accordance with this section.

(d) A provision of the State Construction Code may be applicable:

- (i) to the entire state; or
- (ii) within a county, city, or town.

(2) (a) The Legislature shall adopt a State Construction Code by enacting legislation that adopts a nationally recognized construction code with any modifications.

(b) Legislation described in Subsection (2)(a) shall state that the legislation takes effect on the July 1 after the day on which the legislation is enacted, unless otherwise stated in the legislation.

(c) Subject to Subsection (6), a State Construction Code adopted by the Legislature is the State Construction Code until, in accordance with this section, the Legislature adopts a new State Construction Code by:

- (i) adopting a new State Construction Code in its entirety; or
- (ii) amending or repealing one or more provisions of the State Construction Code.

(3) (a) Except as provided in Subsection (3)(b), for each update of a nationally recognized construction code, the commission shall prepare a report described in Subsection (4).

(b) For the provisions of a nationally recognized construction code that apply only to detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with separate means of egress and their accessory structures, the commission shall:

- (i) prepare a report described in Subsection (4) in 2021 and, thereafter, for every second update of the nationally recognized construction code; and
- (ii) not prepare a report described in Subsection (4) in 2018.

(4) (a) In accordance with Subsection (3), on or before September 1 of the same year as the year designated in the title of a nationally recognized construction code, the commission shall prepare and submit, in accordance with Section 68-3-14, a written report to the Business

218 and Labor Interim Committee that:

219 (i) states whether the commission recommends the Legislature adopt the update with
220 any modifications; and

221 (ii) describes the costs and benefits of each recommended change in the update or in
222 any modification.

223 (b) After the Business and Labor Interim Committee receives the report described in
224 Subsection (4)(a), the Business and Labor Interim Committee shall:

225 (i) study the recommendations; and

226 (ii) if the Business and Labor Interim Committee decides to recommend legislative
227 action to the Legislature, prepare legislation for consideration by the Legislature in the next
228 general session.

229 (5) (a) (i) The commission shall, by no later than September 1 of each year in which
230 the commission is not required to submit a report described in Subsection (4), submit, in
231 accordance with Section 68-3-14, a written report to the Business and Labor Interim
232 Committee recommending whether the Legislature should amend or repeal one or more
233 provisions of the State Construction Code.

234 (ii) As part of a recommendation described in Subsection (5)(a)(i), the commission
235 shall describe the costs and benefits of each proposed amendment or repeal.

236 (b) The commission may recommend legislative action related to the State
237 Construction Code:

238 (i) on its own initiative;

239 (ii) upon the recommendation of the division; or

240 (iii) upon the receipt of a request by one of the following that the commission
241 recommend legislative action related to the State Construction Code:

242 (A) a local regulator;

243 (B) a state regulator;

244 (C) a state agency involved with the construction and design of a building;

245 (D) the Construction Services Commission;

246 (E) the Electrician Licensing Board;

247 (F) the Plumbers Licensing Board; or

248 (G) a recognized construction-related association.

(c) If the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, the Business and Labor Interim Committee shall prepare legislation for consideration by the Legislature in the next general session.

(6) (a) Notwithstanding the provisions of this section, the commission may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, amend the State Construction Code if the commission determines that waiting for legislative action in the next general legislative session would:

(i) cause an imminent peril to the public health, safety, or welfare; or

(ii) place a person in violation of federal or other state law.

(b) If the commission amends the State Construction Code in accordance with this Subsection (6), the commission shall file with the division:

(i) the text of the amendment to the State Construction Code; and

(ii) an analysis that includes the specific reasons and justifications for the commission's findings.

(c) If the State Construction Code is amended under this Subsection (6), the division shall:

(i) publish the amendment to the State Construction Code in accordance with Section 15A-1-205; and

(ii) prepare and submit, in accordance with Section 68-3-14, a written notice to the Business and Labor Interim Committee containing the amendment to the State Construction Code, including a copy of the commission's analysis described in Subsection (6)(b)(ii).

(d) If not formally adopted by the Legislature at the next annual general session, an amendment to the State Construction Code under this Subsection (6) is repealed on the July 1 immediately following the next annual general session that follows the adoption of the amendment.

(7) (a) The division, in consultation with the commission, may approve, without adopting, one or more approved codes, including a specific edition of a construction code, for use by a compliance agency.

(b) If the code adopted by a compliance agency is an approved code described in Subsection (7)(a), the compliance agency may:

(i) adopt an ordinance requiring removal, demolition, or repair of a building;

(ii) adopt, by ordinance or rule, a dangerous building code; or

(iii) adopt, by ordinance or rule, a building rehabilitation code.

(8) Except as provided in Subsections (6), (7), (9), and (10), or as expressly provided in state law, a state executive branch entity or political subdivision of the state may not, after December 1, 2016, adopt or enforce a rule, ordinance, or requirement that applies to a subject specifically addressed by, and that is more restrictive than, the State Construction Code.

(9) A state executive branch entity or political subdivision of the state may:

(a) enforce a federal law or regulation;

(b) adopt or enforce a rule, ordinance, or requirement if the rule, ordinance, or requirement applies only to a facility or construction owned or used by a state entity or a political subdivision of the state; or

(c) enforce a rule, ordinance, or requirement:

(i) that the state executive branch entity or political subdivision adopted or made effective before July 1, 2015; and

(ii) for which the state executive branch entity or political subdivision can demonstrate, with substantial evidence, that the rule, ordinance, or requirement is necessary to protect an individual from a condition likely to cause imminent injury or death.

(10) The Department of Health or the Department of Environmental Quality may enforce a rule or requirement adopted before January 1, 2015.

(11) (a) Except as provided in Subsection (11)(b), a structure used solely in conjunction with agriculture use, and not for human occupancy, or a structure that is no more than 1,500 square feet and used solely for the type of sales described in Subsection 59-12-104[(20)](17), is exempt from the permit requirements of the State Construction Code.

(b) (i) Unless exempted by a provision other than Subsection (11)(a), a plumbing, electrical, and mechanical permit may be required when that work is included in a structure described in Subsection (11)(a).

(ii) Unless located in whole or in part in an agricultural protection area created under Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas, a structure described in Subsection (11)(a) is not exempt from a permit requirement if the structure is located on land that is:

(A) within the boundaries of a city or town, and less than five contiguous acres; or

(B) within a subdivision for which the county has approved a subdivision plat under Title 17, Chapter 27a, Part 6, Subdivisions, and less than two contiguous acres.

Section 2. Section **26-36b-208** is amended to read:

26-36b-208. Medicaid Expansion Fund.

(1) There is created an expendable special revenue fund known as the Medicaid Expansion Fund.

(2) The fund consists of:

- (a) assessments collected under this chapter;
 - (b) intergovernmental transfers under Section 26-36b-206;
 - (c) savings attributable to the health coverage improvement program as determined by the department;
 - (d) savings attributable to the enhancement waiver program as determined by the department;
 - (e) savings attributable to the Medicaid waiver expansion as determined by the department;
 - (f) savings attributable to the inclusion of psychotropic drugs on the preferred drug list under Subsection 26-18-2.4(3) as determined by the department;
 - (g) [~~revenues~~] revenue collected from the sales tax described in Subsection 59-12-103[(13)](12);
 - (h) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources;
 - (i) interest earned on money in the fund; and
 - (j) additional amounts as appropriated by the Legislature.
- (3) (a) The fund shall earn interest.
- (b) All interest earned on fund money shall be deposited into the fund.
- (4) (a) A state agency administering the provisions of this chapter may use money from the fund to pay the costs, not otherwise paid for with federal funds or other revenue sources, of:
- (i) the health coverage improvement program;
 - (ii) the enhancement waiver program;
 - (iii) a Medicaid waiver expansion; and
 - (iv) the outpatient upper payment limit supplemental payments under Section

26-36b-210.

(b) A state agency administering the provisions of this chapter may not use:

(i) funds described in Subsection (2)(b) to pay the cost of private outpatient upper payment limit supplemental payments; or

(ii) money in the fund for any purpose not described in Subsection (4)(a).

Section 3. Section **32B-2-301** is amended to read:

32B-2-301. State property -- Liquor Control Fund -- Money to be retained by department -- Department building process.

(1) The following are property of the state:

(a) the money received in the administration of this title, except as otherwise provided; and

(b) property acquired, administered, possessed, or received by the department.

(2) (a) There is created an enterprise fund known as the "Liquor Control Fund."

(b) [~~Except as provided in Section 32B-2-304, the~~] The department shall deposit the following into the Liquor Control Fund:

(i) money received in the administration of this title; and

(ii) money received from the markup described in Section 32B-2-304.

(c) The department may draw from the Liquor Control Fund only to the extent appropriated by the Legislature or provided by statute.

(d) The net position of the Liquor Control Fund may not fall below zero.

(3) (a) Notwithstanding Subsection (2)(c), the department may draw by warrant from the Liquor Control Fund without an appropriation for an expenditure that is directly incurred by the department:

(i) to purchase an alcoholic product;

(ii) to transport an alcoholic product from the supplier to a warehouse of the department; or

(iii) for variances related to an alcoholic product, including breakage or theft.

(b) If the balance of the Liquor Control Fund is not adequate to cover a warrant that the department draws against the Liquor Control Fund, to the extent necessary to cover the warrant, the cash resources of the General Fund may be used.

(4) (a) As used in this Subsection (4), "base budget" means the same as that term is

373 defined in legislative rule.

374 (b) The department's base budget shall include as an appropriation from the Liquor
375 Control Fund:

376 (i) credit card related fees paid by the department;

377 (ii) package agency compensation; and

378 (iii) the department's costs of shipping and warehousing alcoholic products.

379 (5) (a) The Division of Finance shall transfer annually from the Liquor Control Fund to
380 the General Fund a sum equal to the amount of net profit earned from the sale of liquor since
381 the preceding transfer of money under this Subsection (5).

382 (b) After each fiscal year, the Division of Finance shall calculate the amount for the
383 transfer on or before September 1 and the Division of Finance shall make the transfer on or
384 before September 30.

385 (c) The Division of Finance may make year-end closing entries in the Liquor Control
386 Fund to comply with Subsection 51-5-6(2).

387 (6) (a) By the end of each day, the department shall:

388 (i) make a deposit to a qualified depository, as defined in Section 51-7-3; and

389 (ii) report the deposit to the state treasurer.

390 (b) A commissioner or department employee is not personally liable for a loss caused
391 by the default or failure of a qualified depository.

392 (c) Money deposited in a qualified depository is entitled to the same priority of
393 payment as other public funds of the state.

394 (7) Before the Division of Finance makes the transfer described in Subsection (5), the
395 department may retain each fiscal year from the Liquor Control Fund \$1,000,000 that the
396 department may use for:

397 (a) capital equipment purchases;

398 (b) salary increases for department employees;

399 (c) performance awards for department employees; or

400 (d) information technology enhancements because of changes or trends in technology.

401 Section 4. Section **32B-2-304** is amended to read:

402 **32B-2-304. Liquor price -- School lunch program -- Remittance of markup.**

403 (1) For purposes of this section:

404 (a) (i) "Landed case cost" means:
405 (A) the cost of the product; and
406 (B) inbound shipping costs incurred by the department.
407 (ii) "Landed case cost" does not include the outbound shipping cost from a warehouse
408 of the department to a state store.

409 (b) "Proof gallon" means the same as that term is defined in 26 U.S.C. Sec. 5002.

410 (c) Notwithstanding Section 32B-1-102, "small brewer" means a brewer who
411 manufactures in a calendar year less than 40,000 barrels of beer, heavy beer, and flavored malt
412 beverage.

413 (2) Except as provided in Subsection (3):

414 (a) spirituous liquor sold by the department within the state shall be marked up in an
415 amount not less than 88% above the landed case cost to the department;

416 (b) wine sold by the department within the state shall be marked up in an amount not
417 less than 88% above the landed case cost to the department;

418 (c) heavy beer sold by the department within the state shall be marked up in an amount
419 not less than 66.5% above the landed case cost to the department; and

420 (d) a flavored malt beverage sold by the department within the state shall be marked up
421 in an amount not less than 88% above the landed case cost to the department.

422 (3) (a) Liquor sold by the department to a military installation in Utah shall be marked
423 up in an amount not less than 17% above the landed case cost to the department.

424 (b) Except for spirituous liquor sold by the department to a military installation in
425 Utah, spirituous liquor that is sold by the department within the state shall be marked up 49%
426 above the landed case cost to the department if:

427 (i) the spirituous liquor is manufactured by a manufacturer producing less than 30,000
428 proof gallons of spirituous liquor in a calendar year; and

429 (ii) the manufacturer applies to the department for a reduced markup.

430 (c) Except for wine sold by the department to a military installation in Utah, wine that
431 is sold by the department within the state shall be marked up 49% above the landed case cost to
432 the department if:

433 (i) (A) except as provided in Subsection (3)(c)(i)(B), the wine is manufactured by a
434 manufacturer producing less than 20,000 gallons of wine in a calendar year; or

(B) for hard cider, the hard cider is manufactured by a manufacturer producing less than 620,000 gallons of hard cider in a calendar year; and

(ii) the manufacturer applies to the department for a reduced markup.

(d) Except for heavy beer sold by the department to a military installation in Utah, heavy beer that is sold by the department within the state shall be marked up 32% above the landed case cost to the department if:

(i) a small brewer manufactures the heavy beer; and

(ii) the small brewer applies to the department for a reduced markup.

(e) The department shall verify an amount described in Subsection (3)(b), (c), or (d) pursuant to a federal or other verifiable production report.

(f) For purposes of determining whether an alcoholic product qualifies for a markup under this Subsection (3), the department shall evaluate whether the manufacturer satisfies the applicable production requirement without considering the manufacturer's production of any other type of alcoholic product.

~~[(4) The department shall deposit 10% of the total gross revenue from sales of liquor with the state treasurer to be credited to the Uniform School Fund and used to support the school lunch program administered by the State Board of Education under Section 53E-3-510.]~~

~~[(5)]~~ (4) This section does not prohibit the department from selling discontinued items at a discount.

Section 5. Section **32B-2-305** is amended to read:

32B-2-305. Alcoholic Beverage Control Act Enforcement Fund.

(1) As used in this section:

(a) "Alcohol-related law enforcement officer" is as defined in Section 32B-1-201.

(b) "Enforcement ratio" is as defined in Section 32B-1-201.

(c) "Fund" means the Alcoholic Beverage Control Act Enforcement Fund created in this section.

(2) There is created an expendable special revenue fund known as the "Alcoholic Beverage Control Act Enforcement Fund."

(3) (a) The fund consists of:

(i) deposits made under Subsection (4); and

(ii) interest earned on the fund.

(b) The fund shall earn interest. Interest on the fund shall be deposited into the fund.

(4) ~~[After the deposit made under Section 32B-2-304 for the school lunch program,~~
~~the]~~ The department shall deposit 1% of the total gross revenue from the sale of liquor with the state treasurer to be credited to the fund to be used by the Department of Public Safety as provided in Subsection (5).

(5) (a) The Department of Public Safety shall expend money from the fund to supplement appropriations by the Legislature so that the Department of Public Safety maintains a sufficient number of alcohol-related law enforcement officers such that beginning on July 1, 2012, each year the enforcement ratio as of July 1 is equal to or less than the number specified in Section 32B-1-201.

(b) Beginning July 1, 2012, four alcohol-related law enforcement officers shall have as a primary focus the enforcement of this title in relationship to restaurants.

Section 6. Section **35A-8-308** is amended to read:

35A-8-308. Throughput Infrastructure Fund.

(1) There is created an enterprise fund known as the Throughput Infrastructure Fund.

(2) The fund consists of money generated from the following revenue sources:

(a) all amounts transferred to the fund ~~[under Subsection 59-12-103(12)]~~ by statute;

(b) any voluntary contributions received;

(c) appropriations made to the fund by the Legislature; and

(d) all amounts received from the repayment of loans made by the impact board under Section 35A-8-309.

(3) The state treasurer shall:

(a) invest the money in the fund by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; and

(b) deposit all interest or other earnings derived from those investments into the fund.

Section 7. Section **35A-8-309** is amended to read:

35A-8-309. Throughput Infrastructure Fund administered by impact board --

Uses -- Review by board -- Annual report -- First project.

(1) The impact board shall:

(a) make grants and loans from the Throughput Infrastructure Fund created in Section 35A-8-308 for a throughput infrastructure project;

(b) use money transferred to the Throughput Infrastructure Fund [~~in accordance with Subsection 59-12-103(12)~~] by statute to provide a loan or grant to finance the cost of acquisition or construction of a throughput infrastructure project to one or more local political subdivisions, including a Utah interlocal agency created under Title 11, Chapter 13, Interlocal Cooperation Act;

(c) administer the Throughput Infrastructure Fund in a manner that will keep a portion of the fund revolving;

(d) determine provisions for repayment of loans;

(e) establish criteria for awarding loans and grants; and

(f) establish criteria for determining eligibility for assistance under this section.

(2) The cost of acquisition or construction of a throughput infrastructure project includes amounts for working capital, reserves, transaction costs, and other amounts determined by the impact board to be allocable to a throughput infrastructure project.

(3) The impact board may restructure or forgive all or part of a local political subdivision's or interlocal agency's obligation to repay loans for extenuating circumstances.

(4) To receive assistance under this section, a local political subdivision or an interlocal agency shall submit a formal application containing the information that the impact board requires.

(5) (a) The impact board shall:

(i) review the proposed uses of the Throughput Infrastructure Fund for a loan or grant before approving the loan or grant and may condition its approval on whatever assurances the impact board considers necessary to ensure that proceeds of the loan or grant will be used in accordance with this section;

(ii) ensure that each loan specifies terms for interest deferments, accruals, and scheduled principal repayment; and

(iii) ensure that repayment terms are evidenced by bonds, notes, or other obligations of the appropriate local political subdivision or interlocal agency issued to the impact board and payable from the net revenues of a throughput infrastructure project.

(b) An instrument described in Subsection (5)(a)(iii) may be:

(i) non-recourse to the local political subdivision or interlocal agency; and

(ii) limited to a pledge of the net revenues from a throughput infrastructure project.

(6) (a) Subject to the restriction in Subsection (6)(b), the impact board shall allocate from the Throughput Infrastructure Fund to the board those amounts that are appropriated by the Legislature for the administration of the Throughput Infrastructure Fund.

(b) The amount described in Subsection (6)(a) may not exceed 2% of the annual receipts to the fund.

(7) The board shall include in the annual written report described in Section 35A-1-109:

(a) the number and type of loans and grants made under this section; and

(b) a list of local political subdivisions or interlocal agencies that received assistance under this section.

(8) (a) The first throughput infrastructure project considered by the impact board shall be a bulk commodities ocean terminal project.

(b) Upon receipt of an application from an interlocal agency created for the sole purpose of undertaking a throughput infrastructure project that is a bulk commodities ocean terminal project, the impact board shall:

(i) grant up to 2% of the money in the Throughput Infrastructure Fund to the interlocal agency to pay or reimburse costs incurred by the interlocal agency preliminary to its acquisition of the throughput infrastructure project; and

(ii) fund the interlocal agency's application if the application meets all criteria established by the impact board.

Section 8. Section **35A-9-214** is enacted to read:

35A-9-214. Intergenerational poverty report to State Tax Commission.

(1) As used in this section, "commission" means the State Tax Commission.

(2) On or before January 31 of each year, the department shall provide a notice to each individual the department identifies as experiencing intergenerational poverty that:

(a) informs the individual of the tax credit available under Section 59-10-1114; and

(b) explains the eligibility requirements and process for claiming a tax credit under Section 59-10-1114.

(3) For purposes of Subsection (2), an individual is experiencing intergenerational poverty if:

(a) the individual received public assistance during the previous calendar year;

(b) the individual received public assistance for 12 months or more since the individual reached 18 years of age; and

(c) the individual or the individual's family received public assistance for 12 months or more before the individual reached 18 years of age.

(4) (a) On or before March 1 of each year, the department shall provide the commission an electronic report that states, for each individual to whom the department provided notice in accordance with this section during the preceding year:

(i) the individual's name; and

(ii) the individual's social security number.

(b) The department and the commission shall ensure that the information contained in each electronic report is secure and confidential.

Section 9. Section **41-6a-409** is amended to read:

41-6a-409. Prohibition of flat response fee for motor vehicle accident.

(1) As used in this section, "government entity" means the Department of Transportation, the Utah Highway Patrol Division, or a local government entity or agency.

(2) A government entity:

(a) may not impose a flat fee, or collect a flat fee, from an individual involved in a motor vehicle accident; and

(b) may only charge the individual for the actual cost or a reasonable estimate of the cost of services provided in responding to the motor vehicle accident, limited to:

(i) medical costs for transporting an individual from the scene of a motor vehicle accident or treating a person injured in a motor vehicle accident;

(ii) the cost for repair to damaged public property, if the individual is legally liable for the damage;

(iii) the cost of materials used in cleaning up the motor vehicle accident, if the individual is legally liable for the motor vehicle accident; ~~and~~

(iv) towing costs~~[-];~~ and

(v) applicable sales and use taxes.

(3) If a government entity imposes a charge on more than one individual for the actual cost or a reasonable estimate of the cost of responding to a motor vehicle accident, the government entity shall apportion the charges so that the government entity does not receive

more for responding to the motor vehicle accident than the actual response cost or a reasonable estimate of the cost.

(4) Nothing in this section prohibits a government entity from contracting with an independent contractor to recover costs related to damage to public property.

(5) If a government entity enters into a contract with an independent contractor to recover costs related to damage to public property, the government entity may only pay the independent contractor out of any recovery received from the person who caused the damage or the responsible party.

Section 10. Section **41-6a-505** is amended to read:

41-6a-505. Sentencing requirements for driving under the influence of alcohol, drugs, or a combination of both violations.

(1) As part of any sentence for a first conviction of Section 41-6a-502:

(a) the court shall:

(i) (A) impose a jail sentence of not less than 48 consecutive hours; or

(B) require the individual to work in a compensatory-service work program for not less than 48 hours;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (1)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (1)(b);

(v) impose a fine of not less than \$700;

(vi) order probation for the individual in accordance with Section 41-6a-507, if there is admissible evidence that the individual had a blood alcohol level of .16 or higher;

(vii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(viii) (A) order the individual to pay the towing and storage fees described in Section 72-9-603 and the applicable sales and use tax; or

(B) if the ~~[towing and storage fees]~~ amounts described in Subsection (1)(a)(viii)(A) were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order probation for the individual in accordance with Section 41-6a-507;

(iii) order the individual to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years of age or older; or

(iv) order a combination of Subsections (1)(b)(i) through (iii).

(2) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based:

(a) the court shall:

(i) (A) impose a jail sentence of not less than 240 hours; or

(B) impose a jail sentence of not less than 120 hours in addition to home confinement of not fewer than 720 consecutive hours through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (2)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (2)(b);

(v) impose a fine of not less than \$800;

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(viii) (A) order the individual to pay the towing and storage fees described in Section

652 72-9-603; or

653 (B) if the ~~[towing and storage fees]~~ amounts described in Subsection (2)(a)(viii)(A)

654 were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual

655 sentenced, order the individual sentenced to reimburse the party; and

656 (b) the court may:

657 (i) order the individual to obtain substance abuse treatment if the substance abuse
658 treatment program determines that substance abuse treatment is appropriate;

659 (ii) order the individual to participate in a 24-7 sobriety program as defined in Section
660 41-6a-515.5 if the individual is 21 years of age or older; or

661 (iii) order a combination of Subsections (2)(b)(i) and (ii).

662 (3) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison
663 sentence and places the defendant on probation, the court shall impose:

664 (a) a fine of not less than \$1,500;

665 (b) a jail sentence of not less than 1,500 hours; and

666 (c) supervised probation.

667 (4) For Subsection (3) or Subsection 41-6a-503(2)(b), the court:

668 (a) shall impose an order requiring the individual to obtain a screening and assessment
669 for alcohol and substance abuse, and treatment as appropriate; and

670 (b) may impose an order requiring the individual to participate in a 24-7 sobriety
671 program as defined in Section 41-6a-515.5 if the individual is 21 years of age or older.

672 (5) The requirements of Subsections (1)(a), (2)(a), (3), and (4) may not be suspended.

673 (6) If an individual is convicted of a violation of Section 41-6a-502 and there is
674 admissible evidence that the individual had a blood alcohol level of .16 or higher, the court
675 shall order the following, or describe on record why the order or orders are not appropriate:

676 (a) treatment as described under Subsection (1)(b), (2)(b), or (4); and

677 (b) one or more of the following:

678 (i) the installation of an ignition interlock system as a condition of probation for the
679 individual in accordance with Section 41-6a-518;

680 (ii) the imposition of an ankle attached continuous transdermal alcohol monitoring
681 device as a condition of probation for the individual; or

682 (iii) the imposition of home confinement through the use of electronic monitoring in

accordance with Section 41-6a-506.

Section 11. Section **41-6a-1406** is amended to read:

41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.

(1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under Section 41-1a-1101, 41-6a-527, 41-6a-1405, 41-6a-1408, or 73-18-20.1 by an order of a peace officer or by an order of a person acting on behalf of a law enforcement agency or highway authority, the removal or impoundment of the vehicle, vessel, or outboard motor shall be at the expense of the owner.

(2) The vehicle, vessel, or outboard motor under Subsection (1) shall be removed or impounded to a state impound yard.

(3) The peace officer may move a vehicle, vessel, or outboard motor or cause it to be removed by a tow truck motor carrier that meets standards established:

(a) under Title 72, Chapter 9, Motor Carrier Safety Act; and

(b) by the department under Subsection (10).

(4) (a) Immediately after the removal of the vehicle, vessel, or outboard motor, a report of the removal shall be sent to the Motor Vehicle Division by:

(i) the peace officer or agency by whom the peace officer is employed; and

(ii) the tow truck operator or the tow truck motor carrier by whom the tow truck operator is employed.

(b) The report shall be in a form specified by the Motor Vehicle Division and shall include:

(i) the operator's name, if known;

(ii) a description of the vehicle, vessel, or outboard motor;

(iii) the vehicle identification number or vessel or outboard motor identification number;

(iv) the license number, temporary permit number, or other identification number issued by a state agency;

(v) the date, time, and place of impoundment;

(vi) the reason for removal or impoundment;

(vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or

714 outboard motor; and

715 (viii) the place where the vehicle, vessel, or outboard motor is stored.

716 (c) Until the tow truck operator or tow truck motor carrier reports the removal as

717 required under this Subsection (4), a tow truck motor carrier or impound yard may not:

718 (i) collect any fee associated with the removal; and

719 (ii) begin charging storage fees.

720 (5) (a) Except as provided in Subsection (5)(e) and upon receipt of the report, the

721 Motor Vehicle Division shall give notice, in the manner described in Section 41-1a-114, to the

722 following parties with an interest in the vehicle, vessel, or outboard motor, as applicable:

723 (i) the registered owner;

724 (ii) any lien holder; or

725 (iii) a dealer, as defined in Section 41-1a-102, if the vehicle, vessel, or outboard motor

726 is currently operating under a temporary permit issued by the dealer, as described in Section

727 41-3-302.

728 (b) The notice shall:

729 (i) state the date, time, and place of removal, the name, if applicable, of the person

730 operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal,

731 and the place where the vehicle, vessel, or outboard motor is stored;

732 (ii) state that the registered owner is responsible for payment of:

733 (A) towing, impound, and storage fees charged against the vehicle, vessel, or outboard

734 motor; and

735 (B) the applicable sales and use tax;

736 (iii) state the conditions that must be satisfied before the vehicle, vessel, or outboard

737 motor is released; and

738 (iv) inform the parties described in Subsection (5)(a) of the division's intent to sell the

739 vehicle, vessel, or outboard motor, if, within 30 days after the day of the removal or

740 impoundment under this section, one of the parties fails to make a claim for release of the

741 vehicle, vessel, or outboard motor.

742 (c) Except as provided in Subsection (5)(e) and if the vehicle, vessel, or outboard

743 motor is not registered in this state, the Motor Vehicle Division shall make a reasonable effort

744 to notify the parties described in Subsection (5)(a) of the removal and the place where the

745 vehicle, vessel, or outboard motor is stored.

746 (d) The Motor Vehicle Division shall forward a copy of the notice to the place where
747 the vehicle, vessel, or outboard motor is stored.

748 (e) The Motor Vehicle Division is not required to give notice under this Subsection (5)
749 if a report was received by a tow truck operator or tow truck motor carrier reporting a tow truck
750 service in accordance with Subsection 72-9-603(1)(a)(i).

751 (6) (a) The vehicle, vessel, or outboard motor shall be released after a party described
752 in Subsection (5)(a):

753 (i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of
754 the State Tax Commission;

755 (ii) presents identification sufficient to prove ownership of the impounded vehicle,
756 vessel, or outboard motor;

757 (iii) completes the registration, if needed, and pays the appropriate fees;

758 (iv) if the impoundment was made under Section 41-6a-527, pays an administrative
759 impound fee of \$400; and

760 (v) pays all towing and storage fees and applicable sales and use tax to the place where
761 the vehicle, vessel, or outboard motor is stored.

762 (b) (i) Twenty-nine dollars of the administrative impound fee assessed under
763 Subsection (6)(a)(iv) shall be dedicated credits to the Motor Vehicle Division;

764 (ii) \$147 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall
765 be deposited in the Department of Public Safety Restricted Account created in Section
766 53-3-106;

767 (iii) \$20 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall
768 be deposited in the Spinal Cord and Brain Injury Rehabilitation Fund; and

769 (iv) the remainder of the administrative impound fee assessed under Subsection
770 (6)(a)(iv) shall be deposited in the General Fund.

771 (c) The administrative impound fee assessed under Subsection (6)(a)(iv) shall be
772 waived or refunded by the State Tax Commission if the registered owner, lien holder, or
773 owner's agent presents written evidence to the State Tax Commission that:

774 (i) the Driver License Division determined that the arrested person's driver license
775 should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter

or other report from the Driver License Division presented within 180 days after the day on which the Driver License Division mailed the final notification; or

(ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the stolen vehicle report presented within 180 days after the day of the impoundment.

(d) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept payment by cash and debit or credit card for a removal or impoundment under Subsection (1) or any service rendered, performed, or supplied in connection with a removal or impoundment under Subsection (1).

(e) The owner of an impounded vehicle may not be charged a fee for the storage of the impounded vehicle, vessel, or outboard motor if:

(i) the vehicle, vessel, or outboard motor is being held as evidence; and

(ii) the vehicle, vessel, or outboard motor is not being released to a party described in Subsection 5(a), even if the party satisfies the requirements to release the vehicle, vessel, or outboard motor under this Subsection (6).

(7) (a) An impounded vehicle, vessel, or outboard motor not claimed by a party described in Subsection (5)(a) within the time prescribed by Section 41-1a-1103 shall be sold in accordance with that section and the proceeds, if any, shall be disposed of as provided under Section 41-1a-1104.

(b) The date of impoundment is considered the date of seizure for computing the time period provided under Section 41-1a-1103.

(8) A party described in Subsection (5)(a) that pays all fees ~~[and]~~, charges, and taxes incurred in the impoundment of the owner's vehicle, vessel, or outboard motor has a cause of action for all the fees and charges, together with damages, court costs, and attorney fees, against the operator of the vehicle, vessel, or outboard motor whose actions caused the removal or impoundment.

(9) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel, or outboard motor.

(10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules setting the performance standards for towing companies to be used by the department.

(11) (a) The Motor Vehicle Division may specify that a report required under

Subsection (4) be submitted in electronic form utilizing a database for submission, storage, and retrieval of the information.

(b) (i) Unless otherwise provided by statute, the Motor Vehicle Division or the administrator of the database may adopt a schedule of fees assessed for utilizing the database.

(ii) The fees under this Subsection (11)(b) shall:

(A) be reasonable and fair; and

(B) reflect the cost of administering the database.

Section 12. Section **41-12a-806** is amended to read:

41-12a-806. Restricted account -- Creation -- Funding -- Interest -- Purposes.

(1) There is created within the Transportation Fund a restricted account known as the "Uninsured Motorist Identification Restricted Account."

(2) The account consists of money generated from the following revenue sources:

(a) money received by the state under Section 41-1a-1218, the uninsured motorist identification fee;

(b) money received by the state under Section 41-1a-1220, the registration reinstatement fee; and

(c) appropriations made to the account by the Legislature.

(3) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited into the account.

(4) The Legislature shall appropriate money from the account to:

(a) the department to fund the contract with the designated agent;

(b) the department to offset the costs to state and local law enforcement agencies of using the information for the purposes authorized under this part;

(c) the Tax Commission to offset the costs to the Motor Vehicle Division for revoking and reinstating vehicle registrations under Subsection 41-1a-110(2)(a)(ii); and

(d) the department to reimburse a person for the costs, including any applicable sales and use tax, of towing and storing the person's vehicle if:

(i) the person's vehicle was impounded in accordance with Subsection 41-1a-110(2);

(ii) the impounded vehicle had owner's or operator's security in effect for the vehicle at the time of the impoundment;

(iii) the database indicated that owner's or operator's security was not in effect for the

838 impounded vehicle; and

839 (iv) the department determines that the person's vehicle was wrongfully impounded.

840 (5) The Legislature may appropriate not more than \$1,000,000 annually from the
841 account to the Peace Officer Standards and Training Division, created under Section 53-6-103,
842 for use in law enforcement training, including training on the use of the Uninsured Motorist
843 Identification Database Program created under Title 41, Chapter 12a, Part 8, Uninsured
844 Motorist Identification Database Program.

845 (6) (a) By following the procedures in Title 63G, Chapter 4, Administrative Procedures
846 Act, the department shall hold a hearing to determine whether a person's vehicle was
847 wrongfully impounded under Subsection 41-1a-1101(2).

848 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
849 division shall make rules establishing procedures for a person to apply for a reimbursement
850 under Subsection (4)(d).

851 (c) A person is not eligible for a reimbursement under Subsection (4)(d) unless the
852 person applies for the reimbursement within six months from the date that the motor vehicle
853 was impounded.

854 Section 13. Section **53G-10-406** is amended to read:

855 **53G-10-406. Underage Drinking Prevention Program -- State board rules.**

856 (1) As used in this section:

857 (a) "Advisory council" means the Underage Drinking Prevention Program Advisory
858 Council created in this section.

859 (b) "Program" means the Underage Drinking Prevention Program created in this
860 section.

861 (c) "School-based prevention program" means an evidence-based program intended for
862 students aged 13 and older that:

- 863 (i) is aimed at preventing underage consumption of alcohol;
864 (ii) is delivered by methods that engage students in storytelling and visualization;
865 (iii) addresses the behavioral risk factors associated with underage drinking; and
866 (iv) provides practical tools to address the dangers of underage drinking.

867 (2) There is created the Underage Drinking Prevention Program that consists of:

868 (a) a school-based prevention program for students in grade 7 or 8; and

(b) a school-based prevention program for students in grade 9 or 10 that increases awareness of the dangers of driving under the influence of alcohol.

(3) (a) Beginning with the 2018-19 school year, an LEA shall offer the program each school year to each student in grade 7 or 8 and grade 9 or 10.

(b) An LEA shall select from the providers qualified by the state board under Subsection (6) to offer the program.

(4) The state board shall administer the program with input from the advisory council.

(5) There is created the Underage Drinking Prevention Program Advisory Council comprised of the following members:

(a) the executive director of the Department of Alcoholic Beverage Control or the executive director's designee;

(b) the executive director of the Department of Health or the executive director's designee;

(c) the director of the Division of Substance Abuse and Mental Health or the director's designee;

(d) the director of the Division of Child and Family Services or the director's designee;

(e) the director of the Division of Juvenile Justice Services or the director's designee;

(f) the state superintendent or the state superintendent's designee; and

(g) two members of the state board, appointed by the chair of the state board.

(6) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state board shall qualify one or more providers to provide the program to an LEA.

(b) In selecting a provider described in Subsection (6)(a), the state board shall consider:

(i) whether the provider's program complies with the requirements described in this section;

(ii) the extent to which the provider's underage drinking prevention program aligns with core standards for Utah public schools; and

(iii) the provider's experience in providing a program that is effective at reducing underage drinking.

~~[(7) (a) The state board shall use money from the Underage Drinking Prevention Program Restricted Account described in Section 53F-9-304 for the program.]~~

~~[(b) The state board may use money from the Underage Drinking Prevention Program~~

900 ~~Restricted Account to fund up to .5 of a full-time equivalent position to administer the~~
901 ~~program.]~~

902 ~~[(8)]~~ (9) The state board shall make rules that:

903 (a) beginning with the 2018-19 school year, require an LEA to offer the Underage
904 Drinking Prevention Program each school year to each student in grade 7 or 8 and grade 9 or
905 10; and

906 (b) establish criteria for the state board to use in selecting a provider described in
907 Subsection (6).

908 Section 14. Section **59-1-1503** is amended to read:

909 **59-1-1503. Nonrefundable credit -- Sales and use tax exemption -- Sales and use**
910 **tax remittance.**

911 (1) A nonrefundable individual income tax credit is allowed as provided in Section
912 59-10-1028 related to a capital gain on a transaction involving the exchange of one form of
913 legal tender for another form of legal tender.

914 (2) Sales of currency or coin are exempt from sales and use taxes as provided in
915 Subsection 59-12-104~~[(50)]~~(42).

916 (3) The remittance of a sales and use tax on a transaction involving specie legal tender
917 is as provided in Section 59-12-107.

918 Section 15. Section **59-7-104** is amended to read:

919 **59-7-104. Tax -- Minimum tax.**

920 (1) Each domestic and foreign corporation, except a corporation that is exempt under
921 Section 59-7-102, shall pay an annual tax to the state based on the corporation's Utah taxable
922 income for the taxable year for the privilege of exercising the corporation's corporate franchise,
923 as defined in Section 59-7-101, or for the privilege of doing business, as defined in Section
924 59-7-101, in the state.

925 (2) The tax shall be ~~[4.95%]~~ 4.64% of a corporation's Utah taxable income.

926 (3) The minimum tax a corporation shall pay under this chapter is \$100.

927 Section 16. Section **59-7-201** is amended to read:

928 **59-7-201. Tax -- Minimum tax.**

929 (1) There is imposed upon each corporation, except a corporation that is exempt under
930 Section 59-7-102, a tax upon the corporation's Utah taxable income for the taxable year that is

derived from sources within this state other than income for any period that the corporation is required to include in the corporation's tax base under Section 59-7-104.

(2) The tax imposed by Subsection (1) shall be ~~[4.95%]~~ 4.64% of a corporation's Utah taxable income.

(3) In no case shall the tax be less than \$100.

Section 17. Section **59-7-610** is amended to read:

59-7-610. Recycling market development zones tax credits.

(1) Subject to other provisions of this section, a taxpayer that is a business operating in a recycling market development zone as defined in Section 63N-2-402 may claim the following nonrefundable tax credits:

(a) a tax credit ~~[of 5% of]~~ equal to the product of the percentage listed in Subsection 59-7-104(2) and the purchase price paid for machinery and equipment used directly in:

(i) commercial composting; or

(ii) manufacturing facilities or plant units that:

(A) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or

(B) reduce or reuse postconsumer waste material; and

(b) a tax credit equal to the lesser of:

(i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the taxpayer for establishing and operating recycling or composting technology in Utah; and

(ii) \$2,000.

(2) (a) To claim a tax credit described in Subsection (1), the taxpayer shall receive from the Governor's Office of Economic Development a written certification, on a form approved by the commission, that includes:

(i) a statement that the taxpayer is operating a business within the boundaries of a recycling market development zone;

(ii) for claims of the tax credit described in Subsection (1)(a):

(A) the type of the machinery and equipment that the taxpayer purchased;

(B) the date that the taxpayer purchased the machinery and equipment;

(C) the purchase price for the machinery and equipment;

(D) the total purchase price for all machinery and equipment for which the taxpayer is claiming a tax credit;

(E) a statement that the machinery and equipment are integral to the composting or recycling process; and

(F) the amount of the taxpayer's tax credit; and

(iii) for claims of the tax credit described in Subsection (1)(b):

(A) the type of net expenditure that the taxpayer made to a third party;

(B) the date that the taxpayer made the payment to a third party;

(C) the amount that the taxpayer paid to each third party;

(D) the total amount that the taxpayer paid to all third parties;

(E) a statement that the net expenditures support the establishment and operation of recycling or composting technology in Utah; and

(F) the amount of the taxpayer's tax credit.

(b) (i) The Governor's Office of Economic Development shall provide a taxpayer seeking to claim a tax credit under Subsection (1) with a copy of the written certification.

(ii) The taxpayer shall retain a copy of the written certification for the same period of time that a person is required to keep books and records under Section 59-1-1406.

(c) The Governor's Office of Economic Development shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each taxpayer to which the office issues a written certification; and

(ii) for each taxpayer, the amount of each tax credit listed on the written certification.

(3) A taxpayer may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or both that exceeds 40% of the taxpayer's state income tax liability as the tax liability is calculated:

(a) for the taxable year in which the taxpayer made the purchases or payments;

(b) before any other tax credits the taxpayer may claim for the taxable year; and

(c) before the taxpayer claiming a tax credit authorized by this section.

(4) The commission shall make rules governing what information a taxpayer shall file with the commission to verify the entitlement to and amount of a tax credit.

(5) Except as provided in Subsections (6) through (8), a taxpayer may carry forward, to

the next three taxable years, the amount of the tax credit that exceeds the taxpayer's income tax liability for the taxable year.

(6) A taxpayer may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 63N-2-213.

(7) A taxpayer may not claim or carry forward a tax credit described in Subsection (1)(b) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 63N-2-213.

(8) A taxpayer may not claim or carry forward a tax credit under this section for a taxable year during which the taxpayer claims the targeted business income tax credit under Section 59-7-624.

Section 18. Section **59-7-614.1** is amended to read:

59-7-614.1. Refundable tax credit for hand tools used in farming operations -- Procedures for refund -- Transfers from General Fund to Education Fund -- Rulemaking authority.

(1) ~~[For a taxable year beginning on or after January 1, 2004, a]~~ A taxpayer may claim a refundable tax credit:

(a) as provided in this section;

(b) against taxes otherwise due under this chapter; and

(c) in an amount equal to the amount of tax the taxpayer pays:

(i) on a purchase of a hand tool:

(A) if the purchase is made on or after July 1, 2004;

(B) if the hand tool is used or consumed primarily and directly in a farming operation in the state; and

(C) if the unit purchase price of the hand tool is more than \$250; and

(ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection (1)(c)(i).

(2) A taxpayer:

(a) shall retain the following to establish the amount of tax the resident or nonresident individual paid under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection (1)(c)(i):

1024 (i) a receipt;
1025 (ii) an invoice; or
1026 (iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and
1027 (b) may not carry forward or carry back a tax credit under this section.
1028 (3) (a) In accordance with any rules prescribed by the commission under Subsection
1029 (3)(b)~~[(i)]~~ the commission shall make a refund to a taxpayer that claims a tax credit under this
1030 section if the amount of the tax credit exceeds the taxpayer's tax liability under this chapter~~;~~
1031 ~~and~~].
1032 ~~[(ii) the Division of Finance shall transfer at least annually from the General Fund into~~
1033 ~~the Education Fund an amount equal to the amount of tax credit claimed under this section.]~~
1034 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1035 commission may make rules providing procedures for making~~[(i)]~~ a refund to a taxpayer as
1036 required by Subsection (3)(a)~~[(i); or]~~.
1037 ~~[(ii) transfers from the General Fund into the Education Fund as required by~~
1038 ~~Subsection (3)(a)(ii).]~~
1039 Section 19. Section **59-7-618** is amended to read:
1040 **59-7-618. Tax credit related to alternative fuel heavy duty vehicles.**
1041 (1) As used in this section:
1042 (a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air
1043 Conservation Act.
1044 (b) "Director" means the director of the Division of Air Quality appointed under
1045 Section 19-2-107.
1046 (c) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according to
1047 vehicle classifications established by the Federal Highway Administration.
1048 (d) "Natural gas" includes compressed natural gas and liquified natural gas.
1049 (e) "Qualified heavy duty vehicle" means a heavy duty vehicle that:
1050 (i) has never been titled or registered and has been driven less than 7,500 miles; and
1051 (ii) is fueled by natural gas, has a 100% electric drivetrain, or has a hydrogen-electric
1052 drivetrain.
1053 (f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.
1054 (g) "Qualified taxpayer" means a taxpayer that:

1055 (i) purchases a qualified heavy duty vehicle; and
1056 (ii) receives a tax credit certificate from the director.
1057 (h) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and
1058 owned by a single taxpayer.
1059 (i) "Tax credit certificate" means a certificate issued by the director certifying that a
1060 taxpayer is entitled to a tax credit as provided in this section and stating the amount of the tax
1061 credit.
1062 (2) A qualified taxpayer may claim a nonrefundable tax credit against tax otherwise
1063 due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required
1064 to Pay Corporate Franchise or Income Tax Act:
1065 (a) in an amount equal to:
1066 (i) \$25,000, if the qualified purchase of a natural gas heavy duty vehicle occurs during
1067 calendar year 2015 or calendar year 2016;
1068 (ii) \$25,000, if the qualified purchase occurs during calendar year 2017;
1069 (iii) \$20,000, if the qualified purchase occurs during calendar year 2018;
1070 (iv) \$18,000, if the qualified purchase occurs during calendar year 2019; and
1071 (v) \$15,000, if the qualified purchase occurs during calendar year 2020; and
1072 (b) if the qualified taxpayer certifies under oath that over 50% of the miles that the
1073 heavy duty vehicle that is the subject of the qualified purchase will travel annually will be
1074 within the state.
1075 (3) (a) Except as provided in Subsection (3)(b), a taxpayer may not submit an
1076 application for, and the director may not issue to the taxpayer, a tax credit certificate under this
1077 section in any taxable year for a qualified purchase if the director has already issued tax credit
1078 certificates to the taxpayer for 10 qualified purchases in the same taxable year.
1079 (b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of
1080 tax credits under Subsection (5) has not been claimed, a taxpayer may submit an application
1081 for, and the director may issue to the taxpayer, one or more tax credit certificates for up to eight
1082 additional qualified purchases, even if the director has already issued to that taxpayer tax credit
1083 certificates for the maximum number of qualified purchases allowed under Subsection (3)(a).
1084 (4) (a) Subject to Subsection (4)(b), the director shall reserve 25% of all tax credits
1085 available under this section for qualified taxpayers with a small fleet.

(b) Subsection (4)(a) does not prevent a taxpayer from submitting an application for, or the director from issuing, a tax credit certificate if, before October 1, qualified taxpayers with a small fleet have not reserved under Subsection (5)(b) tax credits for the full amount reserved under Subsection (4)(a).

(5) (a) The aggregate annual total amount of tax credits represented by tax credit certificates that the director issues under this section and Section 59-10-1033 may not exceed \$500,000.

(b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish a process under which a taxpayer may reserve a potential tax credit under this section for a limited time to allow the taxpayer to make a qualified purchase with the assurance that the aggregate limit under Subsection (5)(a) will not be met before the taxpayer is able to submit an application for a tax credit certificate.

(6) (a) (i) A taxpayer wishing to claim a tax credit under this section shall, using forms the board requires by rule:

(A) submit to the director an application for a tax credit;

(B) provide the director proof of a qualified purchase; and

(C) submit to the director the certification under oath required under Subsection (2)(b).

(ii) Upon receiving the application, proof, and certification required under Subsection (6)(a)(i), the director shall provide the taxpayer a written statement from the director acknowledging receipt of the proof.

(b) If the director determines that a taxpayer qualifies for a tax credit under this section, the director shall:

(i) determine the amount of tax credit the taxpayer is allowed under this section; and

(ii) provide the taxpayer with a written tax credit certificate:

(A) stating that the taxpayer has qualified for a tax credit; and

(B) showing the amount of tax credit for which the taxpayer has qualified under this section.

(c) A qualified taxpayer shall retain the tax credit certificate.

(d) The director shall at least annually submit to the commission a list of all qualified taxpayers to which the director has issued a tax credit certificate and the amount of each tax credit represented by the tax credit certificates.

(7) The tax credit under this section is allowed only:

(a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year by the qualified taxpayer;

(b) for the taxable year in which the qualified purchase occurs; and

(c) once per vehicle.

(8) A qualified taxpayer may not assign a tax credit or a tax credit certificate under this section to another person.

(9) If the qualified taxpayer receives a tax credit certificate under this section that allows a tax credit in an amount that exceeds the qualified taxpayer's tax liability under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for a taxable year, the qualified taxpayer may carry forward the amount of the tax credit that exceeds the tax liability for a period that does not exceed the next five taxable years.

~~[(10)(a) In accordance with any rules prescribed by the commission under Subsection (10)(b), the Division of Finance shall transfer at least annually from the General Fund into the Education Fund the aggregate amount of all tax credits claimed under this section.]~~

~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Education Fund as required by Subsection (10)(a).]~~

Section 20. Section **59-7-620** is amended to read:

59-7-620. Nonrefundable tax credit for contribution to state Achieving a Better Life Experience Program account.

(1) As used in this section:

(a) "Account" means an account in a qualified ABLE program where the designated beneficiary of the account is a resident of this state.

(b) "Contributor" means a corporation that:

(i) makes a contribution to an account; and

(ii) receives a statement from the qualified ABLE program itemizing the contribution.

(c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec. 529A.

1148 (d) "Qualified ABLE program" means the same as that term is defined in Section
1149 35A-12-102.

1150 (2) A contributor to an account may claim a nonrefundable tax credit as provided in
1151 this section.

1152 (3) Subject to the other provisions of this section, the tax credit is equal to the product
1153 of:

1154 (a) [~~5%~~] the percentage listed in Subsection 59-7-104(2); and

1155 (b) the total amount of contributions:

1156 (i) the contributor makes for the taxable year; and

1157 (ii) for which the contributor receives a statement from the qualified ABLE program
1158 itemizing the contributions.

1159 (4) A contributor may not claim a tax credit under this section:

1160 (a) for an amount of excess contribution to an account that is returned to the
1161 contributor; or

1162 (b) with respect to an amount the contributor deducts on a federal income tax return.

1163 (5) A tax credit under this section may not be carried forward or carried back.

1164 Section 21. Section **59-10-104** is amended to read:

1165 **59-10-104. Tax basis -- Tax rate -- Exemption.**

1166 (1) A tax is imposed on the state taxable income of a resident individual as provided in
1167 this section.

1168 (2) For purposes of Subsection (1), for a taxable year, the tax is an amount equal to the
1169 product of:

1170 (a) the resident individual's state taxable income for that taxable year; and

1171 (b) [~~4.95%~~] 4.64%.

1172 (3) This section does not apply to a resident individual exempt from taxation under
1173 Section 59-10-104.1.

1174 Section 22. Section **59-10-529.1** is amended to read:

1175 **59-10-529.1. Time period for commission to issue a refund.**

1176 (1) Except as provided in Subsection (2), the commission may not issue a refund
1177 before March 1.

1178 (2) The commission may issue a refund before March 1 if, before March 1, the

1179 commission determines that:

1180 (a) (i) an employer has filed the one or more forms in accordance with Subsection
1181 59-10-406(8) the employer is required to file with respect to an individual; and

1182 (ii) for a refund of a tax credit described in Section 59-10-1114, the Department of
1183 Workforce Services has submitted the electronic report required by Section 35A-9-214; and

1184 (b) the individual has filed a return in accordance with this chapter.

1185 Section 23. Section **59-10-1005** is amended to read:

1186 **59-10-1005. Tax credit for at-home parent.**

1187 (1) As used in this section:

1188 (a) "At-home parent" means a parent:

1189 (i) who provides full-time care at the parent's residence for one or more of the parent's
1190 own qualifying children;

1191 (ii) who claims ~~[the qualifying child as a dependent on the parent's individual income~~
1192 ~~tax return for the taxable year for which the parent claims the credit]~~ a tax credit with respect to
1193 the qualifying child under Section 24, Internal Revenue Code, on the parent's federal individual
1194 income tax return for the taxable year; and

1195 (iii) if the sum of the following amounts are \$3,000 or less for the taxable year for
1196 which the parent claims the credit:

1197 (A) the total wages, tips, and other compensation listed on all of the parent's federal
1198 Forms W-2; and

1199 (B) the gross income listed on the parent's federal Form 1040 Schedule C, Profit or
1200 Loss From Business.

1201 (b) "Parent" means an individual who:

1202 (i) is the biological mother or father of a qualifying child;

1203 (ii) is the stepfather or stepmother of a qualifying child;

1204 (iii) (A) legally adopts a qualifying child; or

1205 (B) has a qualifying child placed in the individual's home:

1206 (I) by a child-placing agency, as defined in Section 62A-2-101; and

1207 (II) for the purpose of legally adopting the child;

1208 (iv) is a foster parent of a qualifying child; or

1209 (v) is a legal guardian of a qualifying child.

(c) "Qualifying child" means a child who is no more than 12 months of age on the last day of the taxable year for which the tax credit is claimed.

(2) ~~[For a taxable year beginning on or after January 1, 2000, a]~~ A claimant may claim on the claimant's individual income tax return a nonrefundable tax credit of \$100 for each qualifying child if:

(a) the claimant or another claimant filing a joint individual income tax return with the claimant is an at-home parent; and

(b) the adjusted gross income of all of the claimants filing the individual income tax return is less than or equal to \$50,000.

(3) A claimant may not carry forward or carry back a tax credit authorized by this section.

~~[(4)(a) In accordance with any rules prescribed by the commission under Subsection (4)(b), the Division of Finance shall transfer at least annually from the General Fund into the Education Fund the aggregate amount of all tax credits claimed under this section.]~~

~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Education Fund as required by Subsection (4)(a).]~~

Section 24. Section **59-10-1007** is amended to read:

59-10-1007. Recycling market development zones tax credits.

(1) Subject to other provisions of this section, a claimant, estate, or trust in a recycling market development zone as defined in Section 63N-2-402 may claim the following nonrefundable tax credits:

(a) a tax credit ~~[of 5% of]~~ equal to the product of the percentage listed in Subsection 59-10-104(2) and the purchase price paid for machinery and equipment used directly in:

(i) commercial composting; or

(ii) manufacturing facilities or plant units that:

(A) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or

(B) reduce or reuse postconsumer waste material; and

(b) a tax credit equal to the lesser of:

(i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test

1241 inventory, and utilities made by the claimant, estate, or trust for establishing and operating
1242 recycling or composting technology in Utah; and
1243 (ii) \$2,000.

1244 (2) (a) To claim a tax credit described in Subsection (1), the claimant, estate, or trust
1245 shall receive from the Governor's Office of Economic Development a written certification, on a
1246 form approved by the commission, that includes:

1247 (i) a statement that the claimant, estate, or trust is operating within the boundaries of a
1248 recycling market development zone;

1249 (ii) for claims of the tax credit described in Subsection (1)(a):

1250 (A) the type of the machinery and equipment that the claimant, estate, or trust
1251 purchased;

1252 (B) the date that the claimant, estate, or trust purchased the machinery and equipment;

1253 (C) the purchase price for the machinery and equipment;

1254 (D) the total purchase price for all machinery and equipment for which the claimant,
1255 estate, or trust is claiming a tax credit;

1256 (E) the amount of the claimant's, estate's, or trust's tax credit; and

1257 (F) a statement that the machinery and equipment are integral to the composting or
1258 recycling process; and

1259 (iii) for claims of the tax credit described in Subsection (1)(b):

1260 (A) the type of net expenditure that the claimant, estate, or trust made to a third party;

1261 (B) the date that the claimant, estate, or trust made the payment to a third party;

1262 (C) the amount that the claimant, estate, or trust paid to each third party;

1263 (D) the total amount that the claimant, estate, or trust paid to all third parties;

1264 (E) a statement that the net expenditures support the establishment and operation of
1265 recycling or composting technology in Utah; and

1266 (F) the amount of the claimant's, estate's, or trust's tax credit.

1267 (b) (i) The Governor's Office of Economic Development shall provide a claimant,
1268 estate, or trust seeking to claim a tax credit under Subsection (1) with a copy of the written
1269 certification.

1270 (ii) The claimant, estate, or trust shall retain a copy of the written certification for the
1271 same period of time that a person is required to keep books and records under Section

1272 59-1-1406.

1273 (c) The Governor's Office of Economic Development shall submit to the commission
1274 an electronic list that includes:

1275 (i) the name and identifying information of each claimant, estate, or trust to which the
1276 office issues a written certification; and

1277 (ii) for each claimant, estate, or trust, the amount of each tax credit listed on the written
1278 certification.

1279 (3) A claimant, estate, or trust may not claim a tax credit under Subsection (1)(a),
1280 Subsection (1)(b), or both that exceeds 40% of the claimant's, estate's, or trust's state income
1281 tax liability as the tax liability is calculated:

1282 (a) for the taxable year in which the claimant, estate, or trust made the purchases or
1283 payments;

1284 (b) before any other tax credits the claimant, estate, or trust may claim for the taxable
1285 year; and

1286 (c) before the claimant, estate, or trust claiming a tax credit authorized by this section.

1287 (4) The commission shall make rules governing what information a claimant, estate, or
1288 trust shall file with the commission to verify the entitlement to and amount of a tax credit.

1289 (5) Except as provided in Subsections (6) through (8), a claimant, estate, or trust may
1290 carry forward, to the next three taxable years, the amount of the tax credit that exceeds the
1291 taxpayer's income tax liability for the taxable year.

1292 (6) A claimant, estate, or trust may not claim or carry forward a tax credit described in
1293 Subsection (1)(a) in a taxable year during which the claimant, estate, or trust claims or carries
1294 forward a tax credit under Section 63N-2-213.

1295 (7) A claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b)
1296 in a taxable year during which the claimant, estate, or trust claims or carries forward a tax
1297 credit under Section 63N-2-213.

1298 (8) A claimant, estate, or trust may not claim or carry forward a tax credit available
1299 under this section for a taxable year during which the claimant, estate, or trust claims the
1300 targeted business income tax credit under Section 59-10-1112.

1301 Section 25. Section **59-10-1017** is amended to read:

1302 **59-10-1017. Utah Educational Savings Plan tax credit.**

- 1303 (1) As used in this section:
- 1304 (a) "Account owner" means the same as that term is defined in Section 53B-8a-102.
- 1305 (b) "Grantor trust" means the same as that term is defined in Section 53B-8a-102.5.
- 1306 (c) "Higher education costs" means the same as that term is defined in Section
- 1307 53B-8a-102.5.
- 1308 (d) "Maximum amount of a qualified investment for the taxable year" means, for a
- 1309 taxable year, the product of ~~[5%]~~ the percentage listed in Subsection 59-10-104(2) and:
- 1310 (i) subject to Subsection (1)(d)(iii), for a claimant, estate, or trust that is an account
- 1311 owner, if that claimant, estate, or trust is other than husband and wife account owners who file
- 1312 a single return jointly, the maximum amount of a qualified investment:
- 1313 (A) listed in Subsection 53B-8a-106(1)(e)(ii); and
- 1314 (B) increased or kept for that taxable year in accordance with Subsections
- 1315 53B-8a-106(1)(f) and (g);
- 1316 (ii) subject to Subsection (1)(d)(iii), for claimants who are husband and wife account
- 1317 owners who file a single return jointly, the maximum amount of a qualified investment:
- 1318 (A) listed in Subsection 53B-8a-106(1)(e)(iii); and
- 1319 (B) increased or kept for that taxable year in accordance with Subsections
- 1320 53B-8a-106(1)(f) and (g); or
- 1321 (iii) for a grantor trust:
- 1322 (A) if the owner of the grantor trust has a single filing status or head of household
- 1323 filing status as defined in Section 59-10-1018, the amount described in Subsection (1)(d)(i); or
- 1324 (B) if the owner of the grantor trust has a joint filing status as defined in Section
- 1325 59-10-1018, the amount described in Subsection (1)(d)(ii).
- 1326 (e) "Owner of the grantor trust" means the same as that term is defined in Section
- 1327 53B-8a-102.5.
- 1328 (f) "Qualified investment" means the same as that term is defined in Section
- 1329 53B-8a-102.5.
- 1330 (2) Except as provided in Section 59-10-1002.2 and subject to the other provisions of
- 1331 this section, a claimant, estate, or trust that is an account owner may claim a nonrefundable tax
- 1332 credit equal to the product of:
- 1333 (a) the amount of a qualified investment made:

1334 (i) during the taxable year; and
1335 (ii) into an account owned by the claimant, estate, or trust; and
1336 (b) [5%] the percentage listed in Subsection 59-10-104(2).
1337 (3) A claimant, estate, or trust, or a person other than the claimant, estate, or trust, may
1338 make a qualified investment described in Subsection (2).
1339 (4) A claimant, estate, or trust that is an account owner may not claim a tax credit
1340 under this section with respect to any portion of a qualified investment described in Subsection
1341 (2) that a claimant, estate, trust, or person described in Subsection (3) deducts on a federal
1342 income tax return.
1343 (5) A tax credit under this section may not exceed the maximum amount of a qualified
1344 investment for the taxable year.
1345 (6) A claimant, estate, or trust that is an account owner may not carry forward or carry
1346 back the tax credit under this section.
1347 (7) A claimant, estate, or trust may claim a tax credit under this section in addition to
1348 the tax credit described in Section 59-10-1017.1.
1349 Section 26. Section **59-10-1017.1** is amended to read:
1350 **59-10-1017.1. Student Prosperity Savings Program tax credit.**
1351 (1) As used in this section, "qualified donation" means an amount donated, in
1352 accordance with Section 53B-8a-203, to the Student Prosperity Savings Program created in
1353 Section 53B-8a-202.
1354 (2) A claimant, estate, or trust may claim a nonrefundable tax credit for a qualified
1355 donation.
1356 (3) The tax credit equals the product of:
1357 (a) the qualified donation; and
1358 (b) [5%] the percentage listed in Subsection 59-10-104(2).
1359 (4) A claimant, estate, or trust may not claim a tax credit under this section with
1360 respect to any portion of a qualified donation that a claimant, estate, or trust deducts on a
1361 federal income tax return.
1362 (5) A claimant, estate, or trust may not carry forward or carry back the portion of the
1363 tax credit allowed by this section that exceeds the claimant's, estate's, or trust's tax liability for
1364 the taxable year in which the claimant, estate, or trust claims the tax credit.

(6) A claimant, estate, or trust may claim a tax credit under this section in addition to the tax credit described in Section 59-10-1017.

Section 27. Section **59-10-1018** is amended to read:

59-10-1018. Definitions -- Nonrefundable taxpayer tax credits.

(1) As used in this section:

(a) "Head of household filing status" means a head of household, as defined in Section 2(b), Internal Revenue Code, who files a single federal individual income tax return for the taxable year.

(b) "Joint filing status" means:

(i) spouses who file a single return jointly under this chapter for a taxable year; or

(ii) a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files a single federal individual income tax return for the taxable year.

(c) "Qualifying dependent" means an individual with respect to whom the claimant is allowed to claim a tax credit under Section 24, Internal Revenue Code, on the claimant's federal individual income tax return for the taxable year.

(d) "Single filing status" means:

(i) a single individual who files a single federal individual income tax return for the taxable year; or

(ii) a married individual who:

(A) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and

(B) files a single federal individual income tax return for the taxable year.

(e) "State or local income tax" means the lesser of:

(i) the amount of state or local income tax that the claimant:

(A) pays for the taxable year; and

(B) reports on the claimant's federal individual income tax return for the taxable year, regardless of whether the claimant is allowed an itemized deduction on the claimant's federal individual income tax return for the taxable year for the full amount of state or local income tax paid; and

(ii) \$10,000.

(f) (i) "Utah itemized deduction" means the amount the claimant deducts as allowed as

1396 an itemized deduction on the claimant's federal individual income tax return for that taxable
1397 year minus any amount of state or local income tax for the taxable year.

1398 (ii) "Utah itemized deduction" does not include any amount of qualified business
1399 income that the claimant subtracts as allowed by Section 199A, Internal Revenue Code, on the
1400 claimant's federal income tax return for that taxable year.

1401 (g) "Utah personal exemption" means, subject to Subsection (6), [~~\$565~~] \$2,500
1402 multiplied by the number of the claimant's qualifying dependents.

1403 (2) Except as provided in Section 59-10-1002.2, and subject to Subsections (3) through
1404 (5), a claimant may claim a nonrefundable tax credit against taxes otherwise due under this part
1405 equal to the sum of:

1406 (a) (i) for a claimant that deducts the standard deduction on the claimant's federal
1407 individual income tax return for the taxable year, 6% of the amount the claimant deducts as
1408 allowed as the standard deduction on the claimant's federal individual income tax return for
1409 that taxable year; or

1410 (ii) for a claimant that itemizes deductions on the claimant's federal individual income
1411 tax return for the taxable year, 6% of the amount of the claimant's Utah itemized deduction;
1412 and

1413 (b) 6% of the claimant's Utah personal exemption.

1414 (3) A claimant may not carry forward or carry back a tax credit under this section.

1415 (4) The tax credit allowed by Subsection (2) shall be reduced by \$.013 for each dollar
1416 by which a claimant's state taxable income exceeds:

1417 (a) for a claimant who has a single filing status, [~~\$12,000~~] \$14,879;

1418 (b) for a claimant who has a head of household filing status, [~~\$18,000~~] \$22,318; or

1419 (c) for a claimant who has a joint filing status, [~~\$24,000~~] \$29,758.

1420 (5) (a) For a taxable year beginning on or after January 1, [~~2009~~] 2021, the commission
1421 shall increase or decrease annually the following dollar amounts by a percentage equal to the
1422 percentage difference between the consumer price index for the preceding calendar year and
1423 the consumer price index for calendar year [~~2007~~] 2019:

1424 (i) the dollar amount listed in Subsection (4)(a); and

1425 (ii) the dollar amount listed in Subsection (4)(b).

1426 (b) After the commission increases or decreases the dollar amounts listed in Subsection

1427 (5)(a), the commission shall round those dollar amounts listed in Subsection (5)(a) to the
1428 nearest whole dollar.

1429 (c) After the commission rounds the dollar amounts as required by Subsection (5)(b),
1430 the commission shall increase or decrease the dollar amount listed in Subsection (4)(c) so that
1431 the dollar amount listed in Subsection (4)(c) is equal to the product of:

1432 (i) the dollar amount listed in Subsection (4)(a); and

1433 (ii) two.

1434 (d) For purposes of Subsection (5)(a), the commission shall calculate the consumer
1435 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

1436 (6) (a) For a taxable year beginning on or after January 1, ~~[2019]~~ 2021, the commission
1437 shall increase annually the Utah personal exemption amount listed in Subsection (1)(g) by a
1438 percentage equal to the percentage by which the consumer price index for the preceding
1439 calendar year exceeds the consumer price index for calendar year ~~[2017]~~ 2019.

1440 (b) After the commission increases the Utah personal exemption amount as described
1441 in Subsection (6)(a), the commission shall round the Utah personal exemption amount to the
1442 nearest whole dollar.

1443 (c) For purposes of Subsection (6)(a), the commission shall calculate the consumer
1444 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

1445 Section 28. Section ~~59-10-1019~~ is amended to read:

1446 **59-10-1019. Definitions -- Nonrefundable retirement tax credits.**

1447 (1) As used in this section:

1448 (a) "Eligible over age 65 ~~[or older]~~ retiree" means a claimant, regardless of whether
1449 that claimant is retired, who ~~[(i) is 65 years of age or older, and (ii)]~~ was born on or before
1450 December 31, 1952.

1451 ~~[(b) (i) "Eligible retirement income" means income received by an eligible under age~~
1452 ~~65 retiree as a pension or annuity if that pension or annuity is:]~~

1453 ~~[(A) paid to the eligible under age 65 retiree or the surviving spouse of an eligible~~
1454 ~~under age 65 retiree; and]~~

1455 ~~[(B) (i) paid from an annuity contract purchased by an employer under a plan that~~
1456 ~~meets the requirements of Section 404(a)(2), Internal Revenue Code;]~~

1457 ~~[(H) purchased by an employee under a plan that meets the requirements of Section~~

1458 ~~408, Internal Revenue Code; or]~~
 1459 ~~[(Hh) paid by:]~~
 1460 ~~[(Aa) the United States;]~~
 1461 ~~[(Bb) a state or a political subdivision of a state; or]~~
 1462 ~~[(Cc) the District of Columbia.]~~
 1463 ~~[(ii) "Eligible retirement income" does not include amounts received by the spouse of a~~
 1464 ~~living eligible under age 65 retiree because of the eligible under age 65 retiree's having been~~
 1465 ~~employed in a community property state.]~~
 1466 ~~[(c) "Eligible under age 65 retiree" means a claimant, regardless of whether that~~
 1467 ~~claimant is retired, who:]~~
 1468 ~~[(i) is younger than 65 years of age;]~~
 1469 ~~[(ii) was born on or before December 31, 1952; and]~~
 1470 ~~[(iii) has eligible retirement income for the taxable year for which a tax credit is~~
 1471 ~~claimed under this section.]~~
 1472 ~~[(dd) (b) "Head of household filing status" [is as] means the same as that term is~~
 1473 ~~defined in Section 59-10-1018.~~
 1474 ~~[(ee) (c) "Joint filing status" [is as] means the same as that term is defined in Section~~
 1475 ~~59-10-1018.~~
 1476 ~~[(ff) (d) "Married filing separately status" means a married individual who:~~
 1477 ~~(i) does not file a single federal individual income tax return jointly with that married~~
 1478 ~~individual's spouse for the taxable year; and~~
 1479 ~~(ii) files a single federal individual income tax return for the taxable year.~~
 1480 ~~[(gg) (e) "Modified adjusted gross income" means the sum of an eligible over age 65~~
 1481 ~~[or older retiree's or eligible under age 65 retiree's] retiree's:~~
 1482 ~~(i) adjusted gross income for the taxable year for which a tax credit is claimed under~~
 1483 ~~this section;~~
 1484 ~~(ii) any interest income that is not included in adjusted gross income for the taxable~~
 1485 ~~year described in Subsection (1)[(gg)](e)(i); and~~
 1486 ~~(iii) any addition to adjusted gross income required by Section 59-10-114 for the~~
 1487 ~~taxable year described in Subsection (1)[(gg)](e)(i).~~
 1488 ~~[(hh) (f) "Single filing status" means a single individual who files a single federal~~

1489 individual income tax return for the taxable year.

1490 (2) Except as provided in Section 59-10-1002.2 ~~[and subject to Subsections (3) through~~
1491 ~~(5): (a)]~~ and Subsection (3), each eligible over age 65 ~~[or older]~~ retiree may claim a
1492 nonrefundable tax credit of \$450 against taxes otherwise due under this part~~[-or].~~

1493 ~~[(b) each eligible under age 65 retiree may claim a nonrefundable tax credit against~~
1494 ~~taxes otherwise due under this part in an amount equal to the lesser of:]~~

1495 ~~[(i) \$288; or]~~

1496 ~~[(ii) the product of:]~~

1497 ~~[(A) the eligible under age 65 retiree's eligible retirement income for the taxable year~~
1498 ~~for which the eligible under age 65 retiree claims a tax credit under this section; and]~~

1499 ~~[(B) 6%.]~~

1500 ~~[(3) A tax credit under this section may not be carried forward or carried back.]~~

1501 (3) An eligible over age 65 retiree may not:

1502 (a) carry forward or carry back a tax credit under this section; or

1503 (b) claim a tax credit under this section if a tax credit is claimed under Section
1504 59-10-1041 on the same return.

1505 (4) The ~~[sum of the tax credits]~~ tax credit allowed by Subsection (2) claimed on ~~[one]~~ a
1506 return filed under this part shall be reduced by \$.025 for each dollar by which modified
1507 adjusted gross income for purposes of the return exceeds:

1508 (a) for a federal individual income tax return that is allowed a married filing separately
1509 status, \$16,000;

1510 (b) for a federal individual income tax return that is allowed a single filing status,
1511 \$25,000;

1512 (c) for a federal individual income tax return that is allowed a head of household filing
1513 status, \$32,000; or

1514 (d) for a return under this chapter that is allowed a joint filing status, \$32,000.

1515 ~~[(5) For purposes of determining the ownership of items of retirement income under~~
1516 ~~this section, common law doctrine shall be applied in all cases even though some items of~~
1517 ~~retirement income may have originated from service or investments in a community property~~
1518 ~~state.]~~

1519 Section 29. Section **59-10-1022** is amended to read:

1520 **59-10-1022. Nonrefundable tax credit for capital gain transactions.**

1521 (1) As used in this section:

1522 (a) (i) "Capital gain transaction" means a transaction that results in a:

1523 (A) short-term capital gain; or

1524 (B) long-term capital gain.

1525 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1526 commission may by rule define the term "transaction."

1527 (b) "Commercial domicile" means the principal place from which the trade or business

1528 of a Utah small business corporation is directed or managed.

1529 (c) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.

1530 (d) "Qualifying stock" means stock that is:

1531 (i) (A) common; or

1532 (B) preferred;

1533 (ii) as defined by the commission by rule made in accordance with Title 63G, Chapter

1534 3, Utah Administrative Rulemaking Act, originally issued to:

1535 (A) a claimant, estate, or trust; or

1536 (B) a partnership if the claimant, estate, or trust that claims a tax credit under this

1537 section:

1538 (I) was a partner on the day on which the stock was issued; and

1539 (II) remains a partner until the last day of the taxable year for which the claimant,

1540 estate, or trust claims a tax credit under this section; and

1541 (iii) issued:

1542 (A) by a Utah small business corporation;

1543 (B) on or after January 1, 2008; and

1544 (C) for:

1545 (I) money; or

1546 (II) other property, except for stock or securities.

1547 (e) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.

1548 (f) (i) "Utah small business corporation" means a corporation that:

1549 (A) except as provided in Subsection (1)(f)(ii), is a small business corporation as

1550 defined in Section 1244(c)(3), Internal Revenue Code;

1551 (B) except as provided in Subsection (1)(f)(iii), meets the requirements of Section
1552 1244(c)(1)(C), Internal Revenue Code; and

1553 (C) has its commercial domicile in this state.

1554 (ii) The dollar amount listed in Section 1244(c)(3)(A) is considered to be \$2,500,000.

1555 (iii) The phrase "the date the loss on such stock was sustained" in Sections
1556 1244(c)(1)(C) and 1244(c)(2), Internal Revenue Code, is considered to be "the last day of the
1557 taxable year for which the claimant, estate, or trust claims a tax credit under this section."

1558 (2) For taxable years beginning on or after January 1, 2008, a claimant, estate, or trust
1559 that meets the requirements of Subsection (3) may claim a nonrefundable tax credit equal to the
1560 product of:

1561 (a) the total amount of the claimant's, estate's, or trust's short-term capital gain or
1562 long-term capital gain on a capital gain transaction that occurs on or after January 1, 2008; and

1563 (b) ~~[5%]~~ the percentage listed in Subsection 59-10-104(2).

1564 (3) For purposes of Subsection (2), a claimant, estate, or trust may claim the
1565 nonrefundable tax credit allowed by Subsection (2) if:

1566 (a) 70% or more of the gross proceeds of the capital gain transaction are expended:

1567 (i) to purchase qualifying stock in a Utah small business corporation; and

1568 (ii) within a 12-month period after the day on which the capital gain transaction occurs;

1569 and

1570 (b) prior to the purchase of the qualifying stock described in Subsection (3)(a)(i), the
1571 claimant, estate, or trust did not have an ownership interest in the Utah small business
1572 corporation that issued the qualifying stock.

1573 (4) A claimant, estate, or trust may not carry forward or carry back a tax credit under
1574 this section.

1575 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1576 commission may make rules:

1577 (a) defining the term "gross proceeds"; and

1578 (b) prescribing the circumstances under which a claimant, estate, or trust has an
1579 ownership interest in a Utah small business corporation.

1580 Section 30. Section **59-10-1023** is amended to read:

1581 **59-10-1023. Nonrefundable tax credit for amounts paid under a health benefit**

1582 **plan.**

1583 (1) As used in this section:

1584 (a) "Claimant with dependents" means a claimant:

1585 (i) regardless of the claimant's filing status for purposes of filing a federal individual
1586 income tax return for the taxable year; and

1587 (ii) who claims [~~one or more dependents under Section 151~~] a tax credit under Section
1588 24, Internal Revenue Code, [~~as allowed~~] on the claimant's federal individual income tax return
1589 for the taxable year.

1590 (b) "Eligible insured individual" means:

1591 (i) the claimant who is insured under a health benefit plan;

1592 (ii) the spouse of the claimant described in Subsection (1)(b)(i) if:

1593 (A) the claimant files a single return jointly under this chapter with the claimant's
1594 spouse for the taxable year; and

1595 (B) the spouse is insured under the health benefit plan described in Subsection
1596 (1)(b)(i); or

1597 (iii) a dependent of the claimant described in Subsection (1)(b)(i) if:

1598 (A) the claimant claims the dependent under Section 151, Internal Revenue Code, as
1599 allowed on the claimant's federal individual income tax return for the taxable year; and

1600 (B) the dependent is insured under the health benefit plan described in Subsection
1601 (1)(b)(i).

1602 (c) "Excluded expenses" means an amount a claimant pays for insurance offered under
1603 a health benefit plan for a taxable year if:

1604 (i) the claimant claims a tax credit for that amount under Section 35, Internal Revenue
1605 Code:

1606 (A) on the claimant's federal individual income tax return for the taxable year; and

1607 (B) with respect to an eligible insured individual;

1608 (ii) the claimant deducts that amount under Section 162 or 213, Internal Revenue
1609 Code:

1610 (A) on the claimant's federal individual income tax return for the taxable year; and

1611 (B) with respect to an eligible insured individual; or

1612 (iii) the claimant excludes that amount from gross income under Section 106 or 125,

1613 Internal Revenue Code, with respect to an eligible insured individual.

1614 (d) (i) "Health benefit plan" is as defined in Section 31A-1-301.

1615 (ii) "Health benefit plan" does not include equivalent self-insurance as defined by the

1616 Insurance Department by rule made in accordance with Title 63G, Chapter 3, Utah

1617 Administrative Rulemaking Act.

1618 (e) "Joint claimant with no dependents" means ~~[a husband and wife]~~ spouses who:

1619 (i) file a single return jointly under this chapter for the taxable year; and

1620 (ii) do not claim a dependent under Section 151, Internal Revenue Code, on the

1621 ~~[husband's and wife's]~~ spouses' federal individual income tax return for the taxable year.

1622 (f) "Single claimant with no dependents" means:

1623 (i) a single individual who:

1624 (A) files a single federal individual income tax return for the taxable year; and

1625 (B) does not claim a dependent under Section 151, Internal Revenue Code, on the

1626 single individual's federal individual income tax return for the taxable year;

1627 (ii) a head of household:

1628 (A) as defined in Section 2(b), Internal Revenue Code, who files a single federal

1629 individual income tax return for the taxable year; and

1630 (B) who does not claim a dependent under Section 151, Internal Revenue Code, on the

1631 head of household's federal individual income tax return for the taxable year; or

1632 (iii) a married individual who:

1633 (A) does not file a single federal individual income tax return jointly with that married

1634 individual's spouse for the taxable year; and

1635 (B) does not claim a dependent under Section 151, Internal Revenue Code, on that

1636 married individual's federal individual income tax return for the taxable year.

1637 (2) Subject to Subsection (3), and except as provided in Subsection (4), ~~[for taxable~~

1638 ~~years beginning on or after January 1, 2009,]~~ a claimant may claim a nonrefundable tax credit

1639 equal to the product of:

1640 (a) the difference between:

1641 (i) the total amount the claimant pays during the taxable year for:

1642 (A) insurance offered under a health benefit plan; and

1643 (B) an eligible insured individual; and

1644 (ii) excluded expenses; and

1645 (b) [5%] the percentage listed in Subsection 59-10-104(2).

1646 (3) The maximum amount of a tax credit described in Subsection (2) a claimant may
1647 claim on a return for a taxable year is:

1648 (a) for a single claimant with no dependents, \$300;

1649 (b) for a joint claimant with no dependents, \$600; or

1650 (c) for a claimant with dependents, \$900.

1651 (4) A claimant may not claim a tax credit under this section if the claimant is eligible to
1652 participate in insurance offered under a health benefit plan maintained and funded in whole or
1653 in part by:

1654 (a) the claimant's employer; or

1655 (b) another person's employer.

1656 (5) A claimant may not carry forward or carry back a tax credit under this section.

1657 Section 31. Section **59-10-1028** is amended to read:

1658 **59-10-1028. Nonrefundable tax credit for capital gain transactions on the**
1659 **exchange of one form of legal tender for another form of legal tender.**

1660 (1) As used in this section:

1661 (a) "Capital gain transaction" means a transaction that results in a:

1662 (i) short-term capital gain; or

1663 (ii) long-term capital gain.

1664 (b) "Long-term capital gain" [~~is as defined~~] means the same as that term is defined in
1665 Section 1222, Internal Revenue Code.

1666 (c) "Long-term capital loss" [~~is as defined~~] means the same as that term is defined in
1667 Section 1222, Internal Revenue Code.

1668 (d) "Net capital gain" means the amount by which the sum of long-term capital gains
1669 and short-term capital gains on a claimant's, estate's, or trust's transactions from exchanges
1670 made for a taxable year of one form of legal tender for another form of legal tender exceeds the
1671 sum of long-term capital losses and short-term capital losses on those transactions for that
1672 taxable year.

1673 (e) "Short-term capital loss" [~~is as defined~~] means the same as that term is defined in
1674 Section 1222, Internal Revenue Code.

(f) "Short-term capital gain" ~~[is as defined]~~ means the same as that term is defined in Section 1222, Internal Revenue Code.

(2) Except as provided in Section 59-10-1002.2, ~~[for taxable years beginning on or after January 1, 2012,]~~ a claimant, estate, or trust may claim a nonrefundable tax credit equal to the product of:

(a) to the extent a net capital gain is included in taxable income, the amount of the claimant's, estate's, or trust's net capital gain on capital gain transactions from exchanges made on or after January 1, 2012, for a taxable year, of one form of legal tender for another form of legal tender; and

(b) ~~[5%]~~ the percentage listed in Subsection 59-10-104(2).

(3) A claimant, estate, or trust may not carry forward or carry back a tax credit under this section.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to implement this section.

Section 32. Section **59-10-1033** is amended to read:

59-10-1033. Tax credit related to alternative fuel heavy duty vehicles.

(1) As used in this section:

(a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act.

(b) "Director" means the director of the Division of Air Quality appointed under Section 19-2-107.

(c) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according to vehicle classifications established by the Federal Highway Administration.

(d) "Natural gas" includes compressed natural gas and liquefied natural gas.

(e) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

(i) has never been titled or registered and has been driven less than 7,500 miles; and

(ii) is fueled by natural gas, has a 100% electric drivetrain, or has a hydrogen-electric drivetrain.

(f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

(g) "Qualified taxpayer" means a claimant, estate, or trust that:

(i) purchases a qualified heavy duty vehicle; and

1706 (ii) receives a tax credit certificate from the director.

1707 (h) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and
1708 owned by a single claimant, estate, or trust.

1709 (i) "Tax credit certificate" means a certificate issued by the director certifying that a
1710 claimant, estate, or trust is entitled to a tax credit as provided in this section and stating the
1711 amount of the tax credit.

1712 (2) A qualified taxpayer may claim a nonrefundable tax credit against tax otherwise
1713 due under this chapter:

1714 (a) in an amount equal to:

1715 (i) \$25,000, if the qualified purchase of a natural gas heavy duty vehicle occurs during
1716 calendar year 2015 or calendar year 2016;

1717 (ii) \$25,000, if the qualified purchase occurs during calendar year 2017;

1718 (iii) \$20,000, if the qualified purchase occurs during calendar year 2018;

1719 (iv) \$18,000, if the qualified purchase occurs during calendar year 2019; and

1720 (v) \$15,000, if the qualified purchase occurs during calendar year 2020; and

1721 (b) if the qualified taxpayer certifies under oath that over 50% of the miles that the
1722 heavy duty vehicle that is the subject of the qualified purchase will travel annually will be
1723 within the state.

1724 (3) (a) Except as provided in Subsection (3)(b), a claimant, estate, or trust may not
1725 submit an application for, and the director may not issue to the claimant, estate, or trust, a tax
1726 credit certificate under this section in any taxable year for a qualified purchase if the director
1727 has already issued tax credit certificates to the claimant, estate, or trust for 10 qualified
1728 purchases in the same taxable year.

1729 (b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of
1730 tax credits under Subsection (5) has not been claimed, a claimant, estate, or trust may submit
1731 an application for, and the director may issue to the claimant, estate, or trust, one or more tax
1732 credit certificates for up to eight additional qualified purchases, even if the director has already
1733 issued to that claimant, estate, or trust tax credit certificates for the maximum number of
1734 qualified purchases allowed under Subsection (3)(a).

1735 (4) (a) Subject to Subsection (4)(b), the director shall reserve 25% of all tax credits
1736 available under this section for qualified taxpayers with a small fleet.

(b) Subsection (4)(a) does not prevent a claimant, estate, or trust from submitting an application for, or the director from issuing, a tax credit certificate if, before October 1, qualified taxpayers with a small fleet have not reserved under Subsection (5)(b) tax credits for the full amount reserved under Subsection (4)(a).

(5) (a) The aggregate annual total amount of tax credits represented by tax credit certificates that the director issues under this section and Section 59-7-618 may not exceed \$500,000.

(b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish a process under which a claimant, estate, or trust may reserve a potential tax credit under this section for a limited time to allow the claimant, estate, or trust to make a qualified purchase with the assurance that the aggregate limit under Subsection (5)(a) will not be met before the claimant, estate, or trust is able to submit an application for a tax credit certificate.

(6) (a) (i) A claimant, estate, or trust wishing to claim a tax credit under this section shall, using forms the board requires by rule:

(A) submit to the director an application for a tax credit;

(B) provide the director proof of a qualified purchase; and

(C) submit to the director the certification under oath required under Subsection (2)(b).

(ii) Upon receiving the application, proof, and certification required under Subsection (6)(a)(i), the director shall provide the claimant, estate, or trust a written statement from the director acknowledging receipt of the proof.

(b) If the director determines that a claimant, estate, or trust qualifies for a tax credit under this section, the director shall:

(i) determine the amount of tax credit the claimant, estate, or trust is allowed under this section; and

(ii) provide the claimant, estate, or trust with a written tax credit certificate:

(A) stating that the claimant, estate, or trust has qualified for a tax credit; and

(B) showing the amount of tax credit for which the claimant, estate, or trust has qualified under this section.

(c) A qualified taxpayer shall retain the tax credit certificate.

(d) The director shall at least annually submit to the commission a list of all qualified

taxpayers to which the director has issued a tax credit certificate and the amount of each tax credit represented by the tax credit certificates.

(7) The tax credit under this section is allowed only:

(a) against a tax owed under this chapter in the taxable year by the qualified taxpayer;

(b) for the taxable year in which the qualified purchase occurs; and

(c) once per vehicle.

(8) A qualified taxpayer may not assign a tax credit or a tax credit certificate under this section to another person.

(9) If the qualified taxpayer receives a tax credit certificate under this section that allows a tax credit in an amount that exceeds the qualified taxpayer's tax liability under this chapter for a taxable year, the qualified taxpayer may carry forward the amount of the tax credit that exceeds the tax liability for a period that does not exceed the next five taxable years.

~~[(10)(a) In accordance with any rules prescribed by the commission under Subsection (10)(b), the Division of Finance shall transfer at least annually from the General Fund into the Education Fund the aggregate amount of all tax credits claimed under this section.]~~

~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Education Fund as required by Subsection (10)(a).]~~

Section 33. Section **59-10-1035** is amended to read:

59-10-1035. Nonrefundable tax credit for contribution to state Achieving a Better Life Experience Program account.

(1) As used in this section:

(a) "Account" means an account in a qualified ABLE program where the designated beneficiary of the account is a resident of this state.

(b) "Contributor" means a claimant, estate, or trust that:

(i) makes a contribution to an account; and

(ii) receives a statement from the qualified ABLE program itemizing the contribution.

(c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec. 529A.

(d) "Qualified ABLE program" means the same as that term is defined in Section 35A-12-102.

(2) A contributor to an account may claim a nonrefundable tax credit as provided in this section.

(3) Subject to the other provisions of this section, the tax credit is equal to the product of:

(a) ~~[5%]~~ the percentage listed in Subsection 59-10-104(2); and

(b) the total amount of contributions:

(i) the contributor makes for the taxable year; and

(ii) for which the contributor receives a statement from the qualified ABLE program itemizing the contributions.

(4) A contributor may not claim a tax credit under this section:

(a) for an amount of excess contribution to an account that is returned to the contributor; or

(b) with respect to an amount the contributor deducts on a federal income tax return.

(5) A tax credit under this section may not be carried forward or carried back.

Section 34. Section **59-10-1041** is enacted to read:

59-10-1041. Nonrefundable tax credit for social security benefits.

(1) As used in this section:

(a) "Head of household filing status" means the same as that term is defined in Section 59-10-1018.

(b) "Joint filing status" means the same as that term is defined in Section 59-10-1018.

(c) "Married filing separately status" means a married individual who:

(i) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and

(ii) files a single federal individual income tax return for the taxable year.

(d) "Modified adjusted gross income" means the sum of a claimant's:

(i) adjusted gross income for the taxable year for which a tax credit is claimed under this section;

(ii) any interest income that is not included in adjusted gross income for the taxable year described in Subsection (1)(d)(i); and

(iii) any addition to adjusted gross income required by Section 59-10-114 for the taxable year described in Subsection (1)(d)(i).

(e) "Single filing status" means a single individual who files a single federal individual income tax return for the taxable year.

(f) "Social security benefit" means an amount received by a claimant as a monthly benefit in accordance with the Social Security Act, 42 U.S.C. Sec. 401 et seq.

(2) Except as provided in Section 59-10-1002.2 and Subsection (3), a claimant may claim a nonrefundable tax credit against taxes otherwise due under this part equal to the product of:

(a) the percentage listed in Subsection 59-10-104(2); and

(b) the claimant's social security benefit that is included in adjusted gross income on the claimant's federal income tax return for the taxable year.

(3) A claimant may not:

(a) carry forward or carry back a tax credit under this section; or

(b) claim a tax credit under this section if a tax credit is claimed under Section 59-10-1019 on the same return.

(4) The tax credit allowed by Subsection (2) claimed on a return filed under this part shall be reduced by \$.025 for each dollar by which modified adjusted gross income for purposes of the return exceeds:

(a) for a return that has a married filing separately status, \$24,000;

(b) for a return that has a single filing status, \$30,000;

(c) for a return that has a head of household filing status, \$48,000; or

(d) for a return under this chapter that is allowed a joint filing status, \$48,000.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules governing the calculation and method for claiming a tax credit described in this section.

Section 35. Section **59-10-1102.1** is enacted to read:

59-10-1102.1. Apportionment of tax credit.

(1) A part-year resident individual who claims the tax credit described in Section 59-10-1113 may only claim an apportioned amount of the tax credit equal to the product of:

(a) the state income tax percentage for the part-year resident individual; and

(b) the amount of the tax credit that the part-year resident individual would have been allowed to claim but for the apportionment requirement of this section.

(2) A nonresident individual or a part-year resident individual who claims the tax credit described in Section 59-10-1114 may only claim an apportioned amount of the tax credit equal to the product of:

(a) the state income tax percentage for the nonresident individual or the state income tax percentage for the part-year resident individual; and

(b) the amount of the tax credit that the nonresident individual or the part-year resident individual would have been allowed to claim but for the apportionment requirement of this section.

Section 36. Section **59-10-1105** is amended to read:

59-10-1105. Tax credit for hand tools used in farming operations -- Procedures for refund -- Transfers from General Fund to Education Fund -- Rulemaking authority.

(1) ~~[For a taxable year beginning on or after January 1, 2004, a]~~ A claimant, estate, or trust may claim a refundable tax credit:

(a) as provided in this section;

(b) against taxes otherwise due under this chapter; and

(c) in an amount equal to the amount of tax the claimant, estate, or trust pays:

(i) on a purchase of a hand tool:

(A) if the purchase is made on or after July 1, 2004;

(B) if the hand tool is used or consumed primarily and directly in a farming operation in the state; and

(C) if the unit purchase price of the hand tool is more than \$250; and

(ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection (1)(c)(i).

(2) A claimant, estate, or trust:

(a) shall retain the following to establish the amount of tax the claimant, estate, or trust paid under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection

(1)(c)(i):

(i) a receipt;

(ii) an invoice; or

(iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and

(b) may not carry forward or carry back a tax credit under this section.

(3) (a) In accordance with any rules prescribed by the commission under Subsection (3)(b)[~~-(i)~~], the commission shall make a refund to a claimant, estate, or trust that claims a tax credit under this section if the amount of the tax credit exceeds the claimant's, estate's, or trust's tax liability under this chapter[~~;-and~~].

~~[(ii) the Division of Finance shall transfer at least annually from the General Fund into the Education Fund an amount equal to the aggregate amount of all tax credits claimed under this section.]~~

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making[~~-(i)~~] a refund to a claimant, estate, or trust as required by Subsection (3)(a)[~~(i)~~; or].

~~[(ii) transfers from the General Fund into the Education Fund as required by Subsection (3)(a)(ii).]~~

Section 37. Section **59-10-1113** is enacted to read:

59-10-1113. Refundable grocery tax credit.

(1) As used in this section:

(a) "Federal poverty level" means the poverty guidelines established by the Secretary of the United States Department of Health and Human Services under 42 U.S.C. Sec. 9909(2).

(b) "Modified adjusted gross income" means the sum of a claimant's:

(i) adjusted gross income for the taxable year for which a tax credit is claimed under this section;

(ii) any interest income that is not included in adjusted gross income for the taxable year described in Subsection (1)(b)(i); and

(iii) any addition to adjusted gross income required by Section 59-10-114 for the taxable year described in Subsection (1)(b)(i).

(c) "Phaseout amount" means an amount equal to 0.0035% of the product of \$125 and the number of the claimant's qualifying household members.

(d) "Qualifying household member" means:

(i) the qualifying individual;

(ii) the qualifying individual's spouse, if the qualifying individual:

(A) files a single return jointly under this chapter with the qualifying individual's spouse for a taxable year; or

(B) is a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files a single federal individual income tax return for a taxable year; and

(iii) a qualifying dependent.

(e) "Qualifying dependent" means the same as that term is defined in Section 59-10-1018.

(f) "Qualifying individual" means a resident individual who is not a qualifying dependent.

(2) Subject to Section 59-10-1102.1 and the provisions of this section a qualifying individual may claim a refundable grocery tax credit equal to \$125 multiplied by the number of qualifying household members.

(3) (a) If a qualifying household member was incarcerated for any part of the taxable year for which the qualifying individual claims the grocery tax credit for the qualifying household member, the qualifying individual's credit for the qualifying household member who was incarcerated is a proportionate amount of the full grocery tax credit.

(b) The proportionate amount of the grocery tax credit is calculated as follows:

(i) divide the number of months that the qualifying household member was not incarcerated by 12; and

(ii) multiply the amount calculated in Subsection (3)(b)(i) by the total grocery tax credit amount described in Subsection (2) for the qualifying household member who was incarcerated.

(4) The tax credit described in this section is reduced by the phaseout amount for each dollar by which the claimant's modified adjusted gross income exceeds the lesser of:

(a) 138% of the federal poverty level for the claimant's household size; or

(b) 138% of the federal poverty level for a household with five individuals.

(5) (a) Except as provided in Subsection (5)(b), to claim the tax credit described in this section, a qualifying individual shall file a return under this chapter.

(b) A qualifying individual who is not required to file a return under this chapter for the taxable year in which the qualifying individual claims a credit under this section, may claim the tax credit described in this section by filing a form prescribed by the commission.

Section 38. Section **59-10-1114** is enacted to read:

59-10-1114. Refundable state earned income tax credit.

1954 (1) As used in this section:

1955 (a) "Department" means the Department of Workforce Services created in Section
 1956 35A-1-103.

1957 (b) "Federal earned income tax credit" means the federal earned income tax credit
 1958 described in Section 32, Internal Revenue Code.

1959 (c) "Qualifying claimant" means a resident individual or nonresident individual who:
 1960 (i) is identified by the department as experiencing intergenerational poverty in
 1961 accordance with Section 35A-9-214; and

1962 (ii) claimed the federal earned income tax credit for the previous taxable year.

1963 (2) Except as provided in Section 59-10-1102.1, a qualifying claimant may claim a
 1964 refundable earned income tax credit equal to 10% of the amount of the federal earned income
 1965 tax credit that the qualifying claimant was entitled to claim on a federal income tax return in
 1966 the previous taxable year.

1967 (3) (a) The commission shall use the electronic report described in Section 35A-9-214
 1968 to verify that a qualifying claimant is identified as experiencing intergenerational poverty.

1969 (b) The commission may not use the electronic report described in Section 35A-9-214
 1970 for any other purpose.

1971 Section 39. Section **59-10-1403.3** is amended to read:

1972 **59-10-1403.3. Refund of amounts paid or withheld for a pass-through entity.**

1973 (1) As used in this section:

1974 (a) "Committee" means the Revenue and Taxation Interim Committee.

1975 (b) "Qualifying excess withholding" means an amount that:

1976 (i) is paid or withheld:

1977 (A) by a pass-through entity that has a different taxable year than the pass-through
 1978 entity that requests a refund under this section; and

1979 (B) on behalf of the pass-through entity that requests the refund, if the pass-through
 1980 entity that requests the refund also is a pass-through entity taxpayer; and

1981 (ii) is equal to the difference between:

1982 (A) the amount paid or withheld for the taxable year on behalf of the pass-through
 1983 entity that requests the refund; and

1984 (B) the product of [5%] the percentage listed in Subsection 59-10-104(2) and the

income, described in Subsection 59-10-1403.2(1)(a)(i), of the pass-through entity that requests the refund.

(2) ~~[For a taxable year ending on or after July 1, 2017, a]~~ A pass-through entity may claim a refund of qualifying excess withholding, if the amount of the qualifying excess withholding is equal to or greater than \$250,000.

(3) A pass-through entity that requests a refund of qualifying excess withholding under this section shall:

(a) apply to the commission for a refund on or, subject to Subsection (4), after the day on which the pass-through entity files the pass-through entity's income tax return; and

(b) provide any information that the commission may require to determine that the pass-through entity is eligible to receive the refund.

(4) A pass-through entity shall claim a refund of qualifying excess withholding under this section within 30 days after the earlier of the day on which:

(a) the pass-through entity files an income tax return; or

(b) the pass-through entity's income tax return is due, including any extension of due date authorized in statute.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules establishing the information that a pass-through entity shall provide to the commission to obtain a refund of qualifying excess withholding under this section.

~~[(6)(a) On or before November 30, 2018, the committee shall review the \$250,000 threshold described in Subsection (2) for the purpose of assessing whether the threshold amount should be maintained, increased, or decreased.]~~

~~[(b) To assist the committee in conducting the review described in Subsection (6)(a), the commission shall provide the committee with:]~~

~~[(i) the total number of refund requests made under this section;]~~

~~[(ii) the total costs of any refunds issued under this section;]~~

~~[(iii) the costs of any audits conducted on refund requests made under this section; and]~~

~~[(iv) an estimation of:]~~

~~[(A) the number of refund requests the commission expects to receive if the Legislature increases the threshold;]~~

2016 ~~[(B) the number of refund requests the commission expects to receive if the Legislature~~
2017 ~~decreases the threshold; and]~~

2018 ~~[(C) the costs of any audits the commission would conduct if the Legislature increases~~
2019 ~~or decreases the threshold.]~~

2020 Section 40. Section **59-12-102** is amended to read:

2021 **59-12-102. Definitions.**

2022 As used in this chapter:

2023 (1) "800 service" means a telecommunications service that:

2024 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

2025 (b) is typically marketed:

2026 (i) under the name 800 toll-free calling;

2027 (ii) under the name 855 toll-free calling;

2028 (iii) under the name 866 toll-free calling;

2029 (iv) under the name 877 toll-free calling;

2030 (v) under the name 888 toll-free calling; or

2031 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
2032 Federal Communications Commission.

2033 (2) (a) "900 service" means an inbound toll telecommunications service that:

2034 (i) a subscriber purchases;

2035 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
2036 the subscriber's:

2037 (A) prerecorded announcement; or

2038 (B) live service; and

2039 (iii) is typically marketed:

2040 (A) under the name 900 service; or

2041 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
2042 Communications Commission.

2043 (b) "900 service" does not include a charge for:

2044 (i) a collection service a seller of a telecommunications service provides to a
2045 subscriber; or

2046 (ii) the following a subscriber sells to the subscriber's customer:

- 2047 (A) a product; or
- 2048 (B) a service.
- 2049 (3) (a) "Admission or user fees" includes season passes.
- 2050 (b) "Admission or user fees" does not include annual membership dues to private
- 2051 organizations.
- 2052 (4) "Affiliate" or "affiliated person" means a person that, with respect to another
- 2053 person:
- 2054 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other
- 2055 person; or
- 2056 (b) is related to the other person because a third person, or a group of third persons who
- 2057 are affiliated persons with respect to each other, holds an ownership interest of more than 5%,
- 2058 whether direct or indirect, in the related persons.
- 2059 (5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 2060 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 2061 Agreement after November 12, 2002.
- 2062 (6) "Agreement combined tax rate" means the sum of the tax rates:
- 2063 (a) listed under Subsection (7); and
- 2064 (b) that are imposed within a local taxing jurisdiction.
- 2065 (7) "Agreement sales and use tax" means a tax imposed under:
- 2066 (a) Subsection 59-12-103(2)(a)(i)(A);
- 2067 (b) Subsection 59-12-103(2)(b)(i);
- 2068 (c) Subsection 59-12-103(2)(c)(i);
- 2069 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 2070 (e) Section 59-12-204;
- 2071 (f) Section 59-12-401;
- 2072 (g) Section 59-12-402;
- 2073 (h) Section 59-12-402.1;
- 2074 (i) Section 59-12-703;
- 2075 (j) Section 59-12-802;
- 2076 (k) Section 59-12-804;
- 2077 (l) Section 59-12-1102;

- 2078 (m) Section 59-12-1302;
- 2079 (n) Section 59-12-1402;
- 2080 (o) Section 59-12-1802;
- 2081 (p) Section 59-12-2003;
- 2082 (q) Section 59-12-2103;
- 2083 (r) Section 59-12-2213;
- 2084 (s) Section 59-12-2214;
- 2085 (t) Section 59-12-2215;
- 2086 (u) Section 59-12-2216;
- 2087 (v) Section 59-12-2217;
- 2088 (w) Section 59-12-2218;
- 2089 (x) Section 59-12-2219; or
- 2090 (y) Section 59-12-2220.
- 2091 (8) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 2092 (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 2093 (a) except for:
- 2094 (i) an airline as defined in Section 59-2-102; or
- 2095 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 2096 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 2097 state, of an airline; and
- 2098 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 2099 whether the business entity performs the following in this state:
- 2100 (i) check, diagnose, overhaul, and repair:
- 2101 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 2102 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 2103 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 2104 engine;
- 2105 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 2106 aircraft:
- 2107 (A) an inspection;
- 2108 (B) a repair, including a structural repair or modification;

- 2109 (C) changing landing gear; and
- 2110 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 2111 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 2112 completely apply new paint to the fixed wing turbine powered aircraft; and
- 2113 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 2114 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 2115 authority that certifies the fixed wing turbine powered aircraft.
- 2116 (10) "Alcoholic beverage" means a beverage that:
- 2117 (a) is suitable for human consumption; and
- 2118 (b) contains .5% or more alcohol by volume.
- 2119 (11) "Alternative energy" means:
- 2120 (a) biomass energy;
- 2121 (b) geothermal energy;
- 2122 (c) hydroelectric energy;
- 2123 (d) solar energy;
- 2124 (e) wind energy; or
- 2125 (f) energy that is derived from:
- 2126 (i) coal-to-liquids;
- 2127 (ii) nuclear fuel;
- 2128 (iii) oil-impregnated diatomaceous earth;
- 2129 (iv) oil sands;
- 2130 (v) oil shale;
- 2131 (vi) petroleum coke; or
- 2132 (vii) waste heat from:
- 2133 (A) an industrial facility; or
- 2134 (B) a power station in which an electric generator is driven through a process in which
- 2135 water is heated, turns into steam, and spins a steam turbine.
- 2136 (12) (a) Subject to Subsection (12)(b), "alternative energy electricity production
- 2137 facility" means a facility that:
- 2138 (i) uses alternative energy to produce electricity; and
- 2139 (ii) has a production capacity of two megawatts or greater.

2140 (b) A facility is an alternative energy electricity production facility regardless of
2141 whether the facility is:

2142 (i) connected to an electric grid; or

2143 (ii) located on the premises of an electricity consumer.

2144 (13) (a) "Ancillary service" means a service associated with, or incidental to, the
2145 provision of telecommunications service.

2146 (b) "Ancillary service" includes:

2147 (i) a conference bridging service;

2148 (ii) a detailed communications billing service;

2149 (iii) directory assistance;

2150 (iv) a vertical service; or

2151 (v) a voice mail service.

2152 (14) "Area agency on aging" means the same as that term is defined in Section
2153 62A-3-101.

2154 ~~[(15) "Assisted amusement device" means an amusement device, skill device, or ride~~
2155 ~~device that is started and stopped by an individual:]~~

2156 ~~[(a) who is not the purchaser or renter of the right to use or operate the amusement~~
2157 ~~device, skill device, or ride device; and]~~

2158 ~~[(b) at the direction of the seller of the right to use the amusement device, skill device,~~
2159 ~~or ride device:]~~

2160 ~~[(16)]~~ (15) "Assisted cleaning or washing of tangible personal property" means
2161 cleaning or washing of tangible personal property if the cleaning or washing labor is primarily
2162 performed by an individual:

2163 (a) who is not the purchaser of the cleaning or washing of the tangible personal
2164 property; and

2165 (b) at the direction of the seller of the cleaning or washing of the tangible personal
2166 property.

2167 ~~[(17)]~~ (16) "Authorized carrier" means:

2168 (a) in the case of vehicles operated over public highways, the holder of credentials
2169 indicating that the vehicle is or will be operated pursuant to both the International Registration
2170 Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

~~[(18)]~~ (17) (a) Except as provided in Subsection ~~[(18)]~~ (17)(b), "biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;

(E) aquatic plants; and

(F) agricultural products.

(b) "Biomass energy" does not include:

(i) black liquor; or

(ii) treated woods.

~~[(19)]~~ (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) "Bundled transaction" does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

- 2202 (iii) the sale of services to real property;
- 2203 (iv) the retail sale of tangible personal property and a service if:
- 2204 (A) the tangible personal property:
- 2205 (I) is essential to the use of the service; and
- 2206 (II) is provided exclusively in connection with the service; and
- 2207 (B) the service is the true object of the transaction;
- 2208 (v) the retail sale of two services if:
- 2209 (A) one service is provided that is essential to the use or receipt of a second service;
- 2210 (B) the first service is provided exclusively in connection with the second service; and
- 2211 (C) the second service is the true object of the transaction;
- 2212 (vi) a transaction that includes tangible personal property or a product subject to
- 2213 taxation under this chapter and tangible personal property or a product that is not subject to
- 2214 taxation under this chapter if the:
- 2215 (A) seller's purchase price of the tangible personal property or product subject to
- 2216 taxation under this chapter is de minimis; or
- 2217 (B) seller's sales price of the tangible personal property or product subject to taxation
- 2218 under this chapter is de minimis; and
- 2219 (vii) the retail sale of tangible personal property that is not subject to taxation under
- 2220 this chapter and tangible personal property that is subject to taxation under this chapter if:
- 2221 (A) that retail sale includes:
- 2222 (I) food and food ingredients;
- 2223 (II) a drug;
- 2224 (III) durable medical equipment;
- 2225 (IV) mobility enhancing equipment;
- 2226 (V) an over-the-counter drug;
- 2227 (VI) a prosthetic device; or
- 2228 (VII) a medical supply; and
- 2229 (B) subject to Subsection [~~(19)~~] (18)(f):
- 2230 (I) the seller's purchase price of the tangible personal property subject to taxation under
- 2231 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
- 2232 (II) the seller's sales price of the tangible personal property subject to taxation under

2233 this chapter is 50% or less of the seller's total sales price of that retail sale.

2234 (c) (i) For purposes of Subsection [~~(19)~~] (18)(a)(i), tangible personal property, a
2235 product, or a service that is distinct and identifiable does not include:

2236 (A) packaging that:

2237 (I) accompanies the sale of the tangible personal property, product, or service; and

2238 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
2239 service;

2240 (B) tangible personal property, a product, or a service provided free of charge with the
2241 purchase of another item of tangible personal property, a product, or a service; or

2242 (C) an item of tangible personal property, a product, or a service included in the
2243 definition of "purchase price."

2244 (ii) For purposes of Subsection [~~(19)~~] (18)(c)(i)(B), an item of tangible personal
2245 property, a product, or a service is provided free of charge with the purchase of another item of
2246 tangible personal property, a product, or a service if the sales price of the purchased item of
2247 tangible personal property, product, or service does not vary depending on the inclusion of the
2248 tangible personal property, product, or service provided free of charge.

2249 (d) (i) For purposes of Subsection [~~(19)~~] (18)(a)(ii), property sold for one nonitemized
2250 price does not include a price that is separately identified by tangible personal property,
2251 product, or service on the following, regardless of whether the following is in paper format or
2252 electronic format:

2253 (A) a binding sales document; or

2254 (B) another supporting sales-related document that is available to a purchaser.

2255 (ii) For purposes of Subsection [~~(19)~~] (18)(d)(i), a binding sales document or another
2256 supporting sales-related document that is available to a purchaser includes:

2257 (A) a bill of sale;

2258 (B) a contract;

2259 (C) an invoice;

2260 (D) a lease agreement;

2261 (E) a periodic notice of rates and services;

2262 (F) a price list;

2263 (G) a rate card;

2264 (H) a receipt; or

2265 (I) a service agreement.

2266 (e) (i) For purposes of Subsection [~~(19)~~] (18)(b)(vi), the sales price of tangible personal
2267 property or a product subject to taxation under this chapter is de minimis if:

2268 (A) the seller's purchase price of the tangible personal property or product is 10% or
2269 less of the seller's total purchase price of the bundled transaction; or

2270 (B) the seller's sales price of the tangible personal property or product is 10% or less of
2271 the seller's total sales price of the bundled transaction.

2272 (ii) For purposes of Subsection [~~(19)~~] (18)(b)(vi), a seller:

2273 (A) shall use the seller's purchase price or the seller's sales price to determine if the
2274 purchase price or sales price of the tangible personal property or product subject to taxation
2275 under this chapter is de minimis; and

2276 (B) may not use a combination of the seller's purchase price and the seller's sales price
2277 to determine if the purchase price or sales price of the tangible personal property or product
2278 subject to taxation under this chapter is de minimis.

2279 (iii) For purposes of Subsection [~~(19)~~] (18)(b)(vi), a seller shall use the full term of a
2280 service contract to determine if the sales price of tangible personal property or a product is de
2281 minimis.

2282 (f) For purposes of Subsection [~~(19)~~] (18)(b)(vii)(B), a seller may not use a
2283 combination of the seller's purchase price and the seller's sales price to determine if tangible
2284 personal property subject to taxation under this chapter is 50% or less of the seller's total
2285 purchase price or sales price of that retail sale.

2286 [~~(20)~~] (19) "Certified automated system" means software certified by the governing
2287 board of the agreement that:

2288 (a) calculates the agreement sales and use tax imposed within a local taxing
2289 jurisdiction:

2290 (i) on a transaction; and

2291 (ii) in the states that are members of the agreement;

2292 (b) determines the amount of agreement sales and use tax to remit to a state that is a
2293 member of the agreement; and

2294 (c) maintains a record of the transaction described in Subsection [~~(20)~~] (19)(a)(i).

2295 ~~[(21)]~~ (20) "Certified service provider" means an agent certified:

2296 (a) by the governing board of the agreement; and

2297 (b) to perform a seller's sales and use tax functions for an agreement sales and use tax,

2298 as outlined in the contract between the governing board of the agreement and the certified

2299 service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the

2300 seller's own purchases.

2301 ~~[(22)]~~ (21) (a) Subject to Subsection ~~[(22)]~~ (21)(b), "clothing" means all human

2302 wearing apparel suitable for general use.

2303 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2304 commission shall make rules:

2305 (i) listing the items that constitute "clothing"; and

2306 (ii) that are consistent with the list of items that constitute "clothing" under the

2307 agreement.

2308 ~~[(23)]~~ (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic

2309 fuel.

2310 ~~[(24)]~~ (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or

2311 other fuels that does not constitute industrial use under Subsection ~~[(57)]~~ (58) or residential use

2312 under Subsection ~~[(111)]~~ (113).

2313 ~~[(25)]~~ (24) (a) "Common carrier" means a person engaged in or transacting the

2314 business of transporting passengers, freight, merchandise, or other property for hire within this

2315 state.

2316 (b) (i) "Common carrier" does not include a person that, at the time the person is

2317 traveling to or from that person's place of employment, transports a passenger to or from the

2318 passenger's place of employment.

2319 (ii) For purposes of Subsection ~~[(25)]~~ (24)(b)(i), in accordance with Title 63G, Chapter

2320 3, Utah Administrative Rulemaking Act, the commission may make rules defining what

2321 constitutes a person's place of employment.

2322 (c) "Common carrier" does not include a person that provides transportation network

2323 services, as defined in Section 13-51-102.

2324 ~~[(26)]~~ (25) "Component part" includes:

2325 (a) poultry, dairy, and other livestock feed, and their components;

- 2326 (b) baling ties and twine used in the baling of hay and straw;
- 2327 (c) fuel used for providing temperature control of orchards and commercial
- 2328 greenhouses doing a majority of their business in wholesale sales, and for providing power for
- 2329 off-highway type farm machinery; and
- 2330 (d) feed, seeds, and seedlings.
- 2331 ~~[(27)]~~ (26) "Computer" means an electronic device that accepts information:
- 2332 (a) (i) in digital form; or
- 2333 (ii) in a form similar to digital form; and
- 2334 (b) manipulates that information for a result based on a sequence of instructions.
- 2335 ~~[(28)]~~ (27) "Computer software" means a set of coded instructions designed to cause:
- 2336 (a) a computer to perform a task; or
- 2337 (b) automatic data processing equipment to perform a task.
- 2338 ~~[(29)]~~ (28) "Computer software maintenance contract" means a contract that obligates a
- 2339 seller of computer software to provide a customer with:
- 2340 (a) future updates or upgrades to computer software;
- 2341 (b) support services with respect to computer software; or
- 2342 (c) a combination of Subsections ~~[(29)]~~ (28)(a) and (b).
- 2343 ~~[(30)]~~ (29) (a) "Conference bridging service" means an ancillary service that links two
- 2344 or more participants of an audio conference call or video conference call.
- 2345 (b) "Conference bridging service" may include providing a telephone number as part of
- 2346 the ancillary service described in Subsection ~~[(30)]~~ (29)(a).
- 2347 (c) "Conference bridging service" does not include a telecommunications service used
- 2348 to reach the ancillary service described in Subsection ~~[(30)]~~ (29)(a).
- 2349 ~~[(31)]~~ (30) "Construction materials" means any tangible personal property that will be
- 2350 converted into real property.
- 2351 ~~[(32)]~~ (31) "Delivered electronically" means delivered to a purchaser by means other
- 2352 than tangible storage media.
- 2353 (32) "Dating referral services" means services that are primarily intended to introduce
- 2354 or match adults for social or romantic activities, including computer dating or video dating
- 2355 services.
- 2356 (33) (a) "Delivery charge" means a charge:

- 2357 (i) by a seller of:
- 2358 (A) tangible personal property;
- 2359 (B) a product transferred electronically; or
- 2360 (C) a service; and
- 2361 (ii) for preparation and delivery of the tangible personal property, product transferred
- 2362 electronically, or services described in Subsection (33)(a)(i) to a location designated by the
- 2363 purchaser.
- 2364 (b) "Delivery charge" includes a charge for the following:
- 2365 (i) transportation;
- 2366 (ii) shipping;
- 2367 (iii) postage;
- 2368 (iv) handling;
- 2369 (v) crating; or
- 2370 (vi) packing.
- 2371 (34) "Detailed telecommunications billing service" means an ancillary service of
- 2372 separately stating information pertaining to individual calls on a customer's billing statement.
- 2373 (35) "Dietary supplement" means a product, other than tobacco, that:
- 2374 (a) is intended to supplement the diet;
- 2375 (b) contains one or more of the following dietary ingredients:
- 2376 (i) a vitamin;
- 2377 (ii) a mineral;
- 2378 (iii) an herb or other botanical;
- 2379 (iv) an amino acid;
- 2380 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 2381 dietary intake; or
- 2382 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 2383 described in Subsections (35)(b)(i) through (v);
- 2384 (c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:
- 2385 (A) tablet form;
- 2386 (B) capsule form;
- 2387 (C) powder form;

2388 (D) softgel form;
2389 (E) gelcap form; or
2390 (F) liquid form; or
2391 (ii) if the product is not intended for ingestion in a form described in Subsections
2392 (35)(c)(i)(A) through (F), is not represented:
2393 (A) as conventional food; and
2394 (B) for use as a sole item of:
2395 (I) a meal; or
2396 (II) the diet; and
2397 (d) is required to be labeled as a dietary supplement:
2398 (i) identifiable by the "Supplemental Facts" box found on the label; and
2399 (ii) as required by 21 C.F.R. Sec. 101.36.
2400 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
2401 musical, spoken, or other sounds.
2402 (b) "Digital audio work" includes a ringtone.
2403 (37) "Digital audio-visual work" means a series of related images which, when shown
2404 in succession, imparts an impression of motion, together with accompanying sounds, if any.
2405 (38) "Digital book" means a work that is generally recognized in the ordinary and usual
2406 sense as a book.
2407 (39) (a) "Direct mail" means printed material delivered or distributed by United States
2408 mail or other delivery service:
2409 (i) to:
2410 (A) a mass audience; or
2411 (B) addressees on a mailing list provided:
2412 (I) by a purchaser of the mailing list; or
2413 (II) at the discretion of the purchaser of the mailing list; and
2414 (ii) if the cost of the printed material is not billed directly to the recipients.
2415 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
2416 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
2417 (c) "Direct mail" does not include multiple items of printed material delivered to a
2418 single address.

- 2419 (40) "Directory assistance" means an ancillary service of providing:
2420 (a) address information; or
2421 (b) telephone number information.
- 2422 (41) (a) "Disposable home medical equipment or supplies" means medical equipment
2423 or supplies that:
2424 (i) cannot withstand repeated use; and
2425 (ii) are purchased by, for, or on behalf of a person other than:
2426 (A) a health care facility as defined in Section 26-21-2;
2427 (B) a health care provider as defined in Section 78B-3-403;
2428 (C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or
2429 (D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).
- 2430 (b) "Disposable home medical equipment or supplies" does not include:
2431 (i) a drug;
2432 (ii) durable medical equipment;
2433 (iii) a hearing aid;
2434 (iv) a hearing aid accessory;
2435 (v) mobility enhancing equipment; or
2436 (vi) tangible personal property used to correct impaired vision, including:
2437 (A) eyeglasses; or
2438 (B) contact lenses.
- 2439 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2440 commission may by rule define what constitutes medical equipment or supplies.
- 2441 (42) "Drilling equipment manufacturer" means a facility:
2442 (a) located in the state;
2443 (b) with respect to which 51% or more of the manufacturing activities of the facility
2444 consist of manufacturing component parts of drilling equipment;
2445 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
2446 manufacturing process; and
2447 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
2448 manufacturing process.
- 2449 (43) (a) "Drug" means a compound, substance, or preparation, or a component of a

2450 compound, substance, or preparation that is:

2451 (i) recognized in:

2452 (A) the official United States Pharmacopoeia;

2453 (B) the official Homeopathic Pharmacopoeia of the United States;

2454 (C) the official National Formulary; or

2455 (D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);

2456 (ii) intended for use in the:

2457 (A) diagnosis of disease;

2458 (B) cure of disease;

2459 (C) mitigation of disease;

2460 (D) treatment of disease; or

2461 (E) prevention of disease; or

2462 (iii) intended to affect:

2463 (A) the structure of the body; or

2464 (B) any function of the body.

2465 (b) "Drug" does not include:

2466 (i) food and food ingredients;

2467 (ii) a dietary supplement;

2468 (iii) an alcoholic beverage; or

2469 (iv) a prosthetic device.

2470 (44) (a) Except as provided in Subsection (44)(c), "durable medical equipment" means
2471 equipment that:

2472 (i) can withstand repeated use;

2473 (ii) is primarily and customarily used to serve a medical purpose;

2474 (iii) generally is not useful to a person in the absence of illness or injury; and

2475 (iv) is not worn in or on the body.

2476 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
2477 equipment described in Subsection (44)(a).

2478 (c) "Durable medical equipment" does not include mobility enhancing equipment.

2479 (45) "Electronic" means:

2480 (a) relating to technology; and

- 2481 (b) having:
- 2482 (i) electrical capabilities;
- 2483 (ii) digital capabilities;
- 2484 (iii) magnetic capabilities;
- 2485 (iv) wireless capabilities;
- 2486 (v) optical capabilities;
- 2487 (vi) electromagnetic capabilities; or
- 2488 (vii) capabilities similar to Subsections (45)(b)(i) through (vi).
- 2489 (46) "Electronic financial payment service" means an establishment:
- 2490 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 2491 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
- 2492 federal Executive Office of the President, Office of Management and Budget; and
- 2493 (b) that performs electronic financial payment services.
- 2494 (47) "Employee" means the same as that term is defined in Section 59-10-401.
- 2495 (48) (a) "Feminine hygiene products" means:
- 2496 (i) tampons;
- 2497 (ii) panty liners;
- 2498 (iii) menstrual cups;
- 2499 (iv) sanitary napkins; or
- 2500 (v) other similar tangible personal property designed for feminine hygiene in
- 2501 connection with the human menstrual cycle.
- 2502 (b) "Feminine hygiene products" does not include:
- 2503 (i) soaps or cleaning solutions;
- 2504 (ii) shampoo;
- 2505 (iii) toothpaste;
- 2506 (iv) mouthwash;
- 2507 (v) antiperspirants; or
- 2508 (vi) suntan lotions or screens.
- 2509 [~~(48)~~] (49) "Fixed guideway" means a public transit facility that uses and occupies:
- 2510 (a) rail for the use of public transit; or
- 2511 (b) a separate right-of-way for the use of public transit.

- 2512 [~~(49)~~] (50) "Fixed wing turbine powered aircraft" means an aircraft that:
- 2513 (a) is powered by turbine engines;
- 2514 (b) operates on jet fuel; and
- 2515 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 2516 [~~(50)~~] (51) "Fixed wireless service" means a telecommunications service that provides
- 2517 radio communication between fixed points.
- 2518 [~~(51)~~] (52) (a) "Food and food ingredients" means substances:
- 2519 (i) regardless of whether the substances are in:
- 2520 (A) liquid form;
- 2521 (B) concentrated form;
- 2522 (C) solid form;
- 2523 (D) frozen form;
- 2524 (E) dried form; or
- 2525 (F) dehydrated form; and
- 2526 (ii) that are:
- 2527 (A) sold for:
- 2528 (I) ingestion by humans; or
- 2529 (II) chewing by humans; and
- 2530 (B) consumed for the substance's:
- 2531 (I) taste; or
- 2532 (II) nutritional value.
- 2533 (b) "Food and food ingredients" includes an item described in Subsection [~~(95)~~]
- 2534 (97)(b)(iii).
- 2535 (c) "Food and food ingredients" does not include:
- 2536 (i) an alcoholic beverage;
- 2537 (ii) tobacco; or
- 2538 (iii) prepared food.
- 2539 [~~(52)~~] (53) (a) "Fundraising sales" means sales:
- 2540 (i) (A) made by a school; or
- 2541 (B) made by a school student;
- 2542 (ii) that are for the purpose of raising funds for the school to purchase equipment,

2543 materials, or provide transportation; and

2544 (iii) that are part of an officially sanctioned school activity.

2545 (b) For purposes of Subsection ~~[(52)]~~ (53)(a)(iii), "officially sanctioned school activity"
2546 means a school activity:

2547 (i) that is conducted in accordance with a formal policy adopted by the school or school
2548 district governing the authorization and supervision of fundraising activities;

2549 (ii) that does not directly or indirectly compensate an individual teacher or other
2550 educational personnel by direct payment, commissions, or payment in kind; and

2551 (iii) the net or gross revenues from which are deposited in a dedicated account
2552 controlled by the school or school district.

2553 ~~[(53)]~~ (54) "Geothermal energy" means energy contained in heat that continuously
2554 flows outward from the earth that is used as the sole source of energy to produce electricity.

2555 ~~[(54)]~~ (55) "Governing board of the agreement" means the governing board of the
2556 agreement that is:

2557 (a) authorized to administer the agreement; and

2558 (b) established in accordance with the agreement.

2559 ~~[(55)]~~ (56) (a) ~~[For purposes of Subsection 59-12-104(41), "governmental"]~~

2560 "Governmental entity" means:

2561 (i) the executive branch of the state, including all departments, institutions, boards,
2562 divisions, bureaus, offices, commissions, and committees;

2563 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
2564 Administrative Office of the Courts, and similar administrative units in the judicial branch;

2565 (iii) the legislative branch of the state, including the House of Representatives, the
2566 Senate, the Legislative Printing Office, the Office of Legislative Research and General
2567 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
2568 Analyst;

2569 (iv) the National Guard;

2570 (v) an independent entity as defined in Section 63E-1-102; or

2571 (vi) a political subdivision as defined in Section 17B-1-102.

2572 (b) "Governmental entity" does not include the state systems of public and higher
2573 education, including:

- 2574 (i) a school;
- 2575 (ii) the State Board of Education;
- 2576 (iii) the State Board of Regents; or
- 2577 (iv) an institution of higher education described in Section 53B-1-102.
- 2578 [~~(56)~~] (57) "Hydroelectric energy" means water used as the sole source of energy to
- 2579 produce electricity.
- 2580 [~~(57)~~] (58) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
- 2581 or other fuels:
- 2582 (a) in mining or extraction of minerals;
- 2583 (b) in agricultural operations to produce an agricultural product up to the time of
- 2584 harvest or placing the agricultural product into a storage facility, including:
- 2585 (i) commercial greenhouses;
- 2586 (ii) irrigation pumps;
- 2587 (iii) farm machinery;
- 2588 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered
- 2589 under Title 41, Chapter 1a, Part 2, Registration; and
- 2590 (v) other farming activities;
- 2591 (c) in manufacturing tangible personal property at an establishment described in:
- 2592 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
- 2593 the federal Executive Office of the President, Office of Management and Budget; or
- 2594 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
- 2595 American Industry Classification System of the federal Executive Office of the President,
- 2596 Office of Management and Budget;
- 2597 (d) by a scrap recycler if:
- 2598 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 2599 one or more of the following items into prepared grades of processed materials for use in new
- 2600 products:
- 2601 (A) iron;
- 2602 (B) steel;
- 2603 (C) nonferrous metal;
- 2604 (D) paper;

2605 (E) glass;
2606 (F) plastic;
2607 (G) textile; or
2608 (H) rubber; and
2609 (ii) the new products under Subsection ~~[(57)]~~ (58)(d)(i) would otherwise be made with
2610 nonrecycled materials; or
2611 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
2612 cogeneration facility as defined in Section 54-2-1.
2613 ~~[(58)]~~ (59) (a) ~~[Except as provided in Subsection (58)(b), "installation]~~ "Installation
2614 charge" means a charge for installing:
2615 (i) tangible personal property; or
2616 (ii) a product transferred electronically.
2617 (b) "Installation charge" does not include a charge for:
2618 (i) repairs or renovations of:
2619 (A) tangible personal property; or
2620 (B) a product transferred electronically; or
2621 (ii) attaching tangible personal property or a product transferred electronically:
2622 (A) to other tangible personal property; and
2623 (B) as part of a manufacturing or fabrication process.
2624 ~~[(59)]~~ (60) "Institution of higher education" means an institution of higher education
2625 listed in Section 53B-2-101.
2626 ~~[(60)]~~ (61) (a) "Lease" or "rental" means a transfer of possession or control of tangible
2627 personal property or a product transferred electronically for:
2628 (i) (A) a fixed term; or
2629 (B) an indeterminate term; and
2630 (ii) consideration.
2631 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
2632 amount of consideration may be increased or decreased by reference to the amount realized
2633 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
2634 Code.
2635 (c) "Lease" or "rental" does not include:

2636 (i) a transfer of possession or control of property under a security agreement or
2637 deferred payment plan that requires the transfer of title upon completion of the required
2638 payments;

2639 (ii) a transfer of possession or control of property under an agreement that requires the
2640 transfer of title:

2641 (A) upon completion of required payments; and
2642 (B) if the payment of an option price does not exceed the greater of:

2643 (I) \$100; or
2644 (II) 1% of the total required payments; or

2645 (iii) providing tangible personal property along with an operator for a fixed period of
2646 time or an indeterminate period of time if the operator is necessary for equipment to perform as
2647 designed.

2648 (d) For purposes of Subsection [~~(60)~~] (61)(c)(iii), an operator is necessary for
2649 equipment to perform as designed if the operator's duties exceed the:

2650 (i) set-up of tangible personal property;
2651 (ii) maintenance of tangible personal property; or
2652 (iii) inspection of tangible personal property.

2653 [~~(61)~~] (62) "Life science establishment" means an establishment in this state that is
2654 classified under the following NAICS codes of the 2007 North American Industry
2655 Classification System of the federal Executive Office of the President, Office of Management
2656 and Budget:

2657 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
2658 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
2659 Manufacturing; or
2660 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

2661 [~~(62)~~] (63) "Life science research and development facility" means a facility owned,
2662 leased, or rented by a life science establishment if research and development is performed in
2663 51% or more of the total area of the facility.

2664 [~~(63)~~] (64) "Load and leave" means delivery to a purchaser by use of a tangible storage
2665 media if the tangible storage media is not physically transferred to the purchaser.

2666 [~~(64)~~] (65) "Local taxing jurisdiction" means a:

2667 (a) county that is authorized to impose an agreement sales and use tax;
2668 (b) city that is authorized to impose an agreement sales and use tax; or
2669 (c) town that is authorized to impose an agreement sales and use tax.
2670 [~~(65)~~] (66) "Manufactured home" means the same as that term is defined in Section
2671 15A-1-302.
2672 [~~(66)~~] (67) "Manufacturing facility" means:
2673 (a) an establishment described in:
2674 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
2675 the federal Executive Office of the President, Office of Management and Budget; or
2676 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
2677 American Industry Classification System of the federal Executive Office of the President,
2678 Office of Management and Budget;
2679 (b) a scrap recycler if:
2680 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
2681 one or more of the following items into prepared grades of processed materials for use in new
2682 products:
2683 (A) iron;
2684 (B) steel;
2685 (C) nonferrous metal;
2686 (D) paper;
2687 (E) glass;
2688 (F) plastic;
2689 (G) textile; or
2690 (H) rubber; and
2691 (ii) the new products under Subsection [~~(66)~~] (67)(b)(i) would otherwise be made with
2692 nonrecycled materials; or
2693 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is
2694 placed in service on or after May 1, 2006.
2695 [~~(67)~~] (68) (a) "Marketplace" means a physical or electronic place, platform, or forum
2696 where tangible personal property, a product transferred electronically, or a service is offered for
2697 sale.

(b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a dedicated sales software application.

~~[(68)]~~ (69) (a) "Marketplace facilitator" means a person, including an affiliate of the person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to facilitate the sale of a seller's product through a marketplace that the person owns, operates, or controls and that directly or indirectly:

(i) does any of the following:

(A) lists, makes available, or advertises tangible personal property, a product transferred electronically, or a service for sale by a marketplace seller on a marketplace that the person owns, operates, or controls;

(B) facilitates the sale of a marketplace seller's tangible personal property, product transferred electronically, or service by transmitting or otherwise communicating an offer or acceptance of a retail sale between the marketplace seller and a purchaser using the marketplace;

(C) owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects a marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal property, a product transferred electronically, or a service;

(D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(E) provides software development or research and development activities related to any activity described in this Subsection ~~[(68)]~~ (69)(a)(i), if the software development or research and development activity is directly related to the person's marketplace;

(F) provides or offers fulfillment or storage services for a marketplace seller;

(G) sets prices for the sale of tangible personal property, a product transferred electronically, or a service by a marketplace seller;

(H) provides or offers customer service to a marketplace seller or a marketplace seller's purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal property, a product transferred electronically, or a service sold by a marketplace seller on the

2729 person's marketplace; or

2730 (I) brands or otherwise identifies sales as those of the person; and

2731 (ii) does any of the following:

2732 (A) collects the sales price or purchase price of a retail sale of tangible personal
2733 property, a product transferred electronically, or a service;

2734 (B) provides payment processing services for a retail sale of tangible personal property,
2735 a product transferred electronically, or a service;

2736 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing
2737 fee, a fee for inserting or making available tangible personal property, a product transferred
2738 electronically, or a service on the person's marketplace, or other consideration for the
2739 facilitation of a retail sale of tangible personal property, a product transferred electronically, or
2740 a service, regardless of ownership or control of the tangible personal property, the product
2741 transferred electronically, or the service that is the subject of the retail sale;

2742 (D) through terms and conditions, an agreement, or another arrangement with a third
2743 person, collects payment from a purchase for a retail sale of tangible personal property, a
2744 product transferred electronically, or a service and transmits that payment to the marketplace
2745 seller, regardless of whether the third person receives compensation or other consideration in
2746 exchange for the service; or

2747 (E) provides a virtual currency for a purchaser to use to purchase tangible personal
2748 property, a product transferred electronically, or service offered for sale.

2749 (b) "Marketplace facilitator" does not include a person that only provides payment
2750 processing services.

2751 ~~[(69)]~~ (70) "Marketplace seller" means a seller that makes one or more retail sales
2752 through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of
2753 whether the seller is required to be registered to collect and remit the tax under this part.

2754 ~~[(70)]~~ (71) "Member of the immediate family of the producer" means a person who is
2755 related to a producer described in Subsection 59-12-104~~[(20)]~~(17)(a) as a:

2756 (a) child or stepchild, regardless of whether the child or stepchild is:

2757 (i) an adopted child or adopted stepchild; or

2758 (ii) a foster child or foster stepchild;

2759 (b) grandchild or stepgrandchild;

2760 (c) grandparent or stepgrandparent;
 2761 (d) nephew or stepnephew;
 2762 (e) niece or stepniece;
 2763 (f) parent or stepparent;
 2764 (g) sibling or stepsibling;
 2765 (h) spouse;
 2766 (i) person who is the spouse of a person described in Subsections ~~[(70)]~~ (71)(a) through
 2767 (g); or
 2768 (j) person similar to a person described in Subsections ~~[(70)]~~ (71)(a) through (i) as
 2769 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
 2770 Administrative Rulemaking Act.
 2771 ~~[(71)]~~ (72) "Mobile home" means the same as that term is defined in Section
 2772 15A-1-302.
 2773 ~~[(72)]~~ (73) "Mobile telecommunications service" means the same as that term is
 2774 defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
 2775 ~~[(73)]~~ (74) (a) "Mobile wireless service" means a telecommunications service,
 2776 regardless of the technology used, if:
 2777 (i) the origination point of the conveyance, routing, or transmission is not fixed;
 2778 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
 2779 (iii) the origination point described in Subsection ~~[(73)]~~ (74)(a)(i) and the termination
 2780 point described in Subsection ~~[(73)]~~ (74)(a)(ii) are not fixed.
 2781 (b) "Mobile wireless service" includes a telecommunications service that is provided
 2782 by a commercial mobile radio service provider.
 2783 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 2784 commission may by rule define "commercial mobile radio service provider."
 2785 ~~[(74)]~~ (75) (a) ~~[Except as provided in Subsection (74)(c), "mobility"]~~ "Mobility
 2786 enhancing equipment" means equipment that is:
 2787 (i) primarily and customarily used to provide or increase the ability to move from one
 2788 place to another;
 2789 (ii) appropriate for use in a:
 2790 (A) home; or

2791 (B) motor vehicle; and
2792 (iii) not generally used by persons with normal mobility.
2793 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
2794 the equipment described in Subsection ~~[(74)]~~ (75)(a).
2795 (c) "Mobility enhancing equipment" does not include:
2796 (i) a motor vehicle;
2797 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
2798 vehicle manufacturer;
2799 (iii) durable medical equipment; or
2800 (iv) a prosthetic device.
2801 ~~[(75)]~~ (76) "Model 1 seller" means a seller registered under the agreement that has
2802 selected a certified service provider as the seller's agent to perform the seller's sales and use tax
2803 functions for agreement sales and use taxes, as outlined in the contract between the governing
2804 board of the agreement and the certified service provider, other than the seller's obligation
2805 under Section 59-12-124 to remit a tax on the seller's own purchases.
2806 ~~[(76)]~~ (77) "Model 2 seller" means a seller registered under the agreement that:
2807 (a) except as provided in Subsection ~~[(76)]~~ (77)(b), has selected a certified automated
2808 system to perform the seller's sales tax functions for agreement sales and use taxes; and
2809 (b) retains responsibility for remitting all of the sales tax:
2810 (i) collected by the seller; and
2811 (ii) to the appropriate local taxing jurisdiction.
2812 ~~[(77)]~~ (78) (a) Subject to Subsection ~~[(77)]~~ (78)(b), "model 3 seller" means a seller
2813 registered under the agreement that has:
2814 (i) sales in at least five states that are members of the agreement;
2815 (ii) total annual sales ~~[revenues]~~ revenue of at least \$500,000,000;
2816 (iii) a proprietary system that calculates the amount of tax:
2817 (A) for an agreement sales and use tax; and
2818 (B) due to each local taxing jurisdiction; and
2819 (iv) entered into a performance agreement with the governing board of the agreement.
2820 (b) ~~[For purposes of Subsection (77) (78)(a), "model"]~~ "Model 3 seller" includes an
2821 affiliated group of sellers using the same proprietary system.

2822 ~~[(78)]~~ (79) "Model 4 seller" means a seller that is registered under the agreement and is
 2823 not a model 1 seller, model 2 seller, or model 3 seller.

2824 ~~[(79)]~~ (80) "Modular home" means a modular unit as defined in Section 15A-1-302.

2825 ~~[(80)]~~ (81) "Motor vehicle" means the same as that term is defined in Section
 2826 41-1a-102.

2827 ~~[(81)]~~ (82) "Oil sands" means impregnated bituminous sands that:

2828 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
 2829 other hydrocarbons, or otherwise treated;

2830 (b) yield mixtures of liquid hydrocarbon; and

2831 (c) require further processing other than mechanical blending before becoming finished
 2832 petroleum products.

2833 ~~[(82)]~~ (83) "Oil shale" means a group of fine black to dark brown shales containing
 2834 kerogen material that yields petroleum upon heating and distillation.

2835 ~~[(83)]~~ (84) "Optional computer software maintenance contract" means a computer
 2836 software maintenance contract that a customer is not obligated to purchase as a condition to the
 2837 retail sale of computer software.

2838 ~~[(84)]~~ (85) (a) "Other fuels" means products that burn independently to produce heat or
 2839 energy.

2840 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
 2841 personal property.

2842 ~~[(85)]~~ (86) (a) "Paging service" means a telecommunications service that provides
 2843 transmission of a coded radio signal for the purpose of activating a specific pager.

2844 (b) For purposes of Subsection ~~[(85)]~~ (86)(a), the transmission of a coded radio signal
 2845 includes a transmission by message or sound.

2846 (87) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

2847 ~~[(86)]~~ (88) "Pawnbroker" means the same as that term is defined in Section
 2848 13-32a-102.

2849 ~~[(87)] "Pawn transaction" means the same as that term is defined in Section~~
 2850 ~~13-32a-102.]~~

2851 ~~[(88)]~~ (89) (a) "Permanently attached to real property" means that for tangible personal
 2852 property attached to real property:

2853 (i) the attachment of the tangible personal property to the real property:
2854 (A) is essential to the use of the tangible personal property; and
2855 (B) suggests that the tangible personal property will remain attached to the real
2856 property in the same place over the useful life of the tangible personal property; or
2857 (ii) if the tangible personal property is detached from the real property, the detachment
2858 would:
2859 (A) cause substantial damage to the tangible personal property; or
2860 (B) require substantial alteration or repair of the real property to which the tangible
2861 personal property is attached.

2862 (b) "Permanently attached to real property" includes:
2863 (i) the attachment of an accessory to the tangible personal property if the accessory is:
2864 (A) essential to the operation of the tangible personal property; and
2865 (B) attached only to facilitate the operation of the tangible personal property;
2866 (ii) a temporary detachment of tangible personal property from real property for a
2867 repair or renovation if the repair or renovation is performed where the tangible personal
2868 property and real property are located; or
2869 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
2870 Subsection ~~[(88)]~~ (89)(c)(iii) or (iv).

2871 (c) "Permanently attached to real property" does not include:
2872 (i) the attachment of portable or movable tangible personal property to real property if
2873 that portable or movable tangible personal property is attached to real property only for:
2874 (A) convenience;
2875 (B) stability; or
2876 (C) for an obvious temporary purpose;
2877 (ii) the detachment of tangible personal property from real property except for the
2878 detachment described in Subsection ~~[(88)]~~ (89)(b)(ii);
2879 (iii) an attachment of the following tangible personal property to real property if the
2880 attachment to real property is only through a line that supplies water, electricity, gas,
2881 telecommunications, cable, or supplies a similar item as determined by the commission by rule
2882 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
2883 (A) a computer;

2884 (B) a telephone;
2885 (C) a television; or
2886 (D) tangible personal property similar to Subsections [~~(88)~~] (89)(c)(iii)(A) through (C)
2887 as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
2888 Administrative Rulemaking Act; or
2889 (iv) an item listed in Subsection [~~(129)~~] (133)(c).
2890 [~~(89)~~] (90) "Person" includes any individual, firm, partnership, joint venture,
2891 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
2892 city, municipality, district, or other local governmental entity of the state, or any group or
2893 combination acting as a unit.
2894 (91) (a) "Personal transportation service" means the transportation of one or more
2895 individuals by motor vehicle.
2896 (b) "Personal transportation" includes taxicab service, limousine service, driver service,
2897 shuttle service, scenic or sightseeing transportation, and a prearranged ride as defined in
2898 Section 13-51-102.
2899 (c) "Personal transportation service" does not include:
2900 (i) services provided by or through a governmental entity;
2901 (ii) transportation by ambulance as defined in Section 26-8a-102;
2902 (iii) transportation provided in connection with a funeral; or
2903 (iv) transportation by a low-speed vehicle, as defined in Section 41-6a-102, within a
2904 county of the first class, as classified in Section 17-50-501.
2905 [~~(90)~~] (92) "Place of primary use":
2906 (a) for telecommunications service other than mobile telecommunications service,
2907 means the street address representative of where the customer's use of the telecommunications
2908 service primarily occurs, which shall be:
2909 (i) the residential street address of the customer; or
2910 (ii) the primary business street address of the customer; or
2911 (b) for mobile telecommunications service, means the same as that term is defined in
2912 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
2913 [~~(91)~~] (93) (a) "Postpaid calling service" means a telecommunications service a person
2914 obtains by making a payment on a call-by-call basis:

2915 (i) through the use of a:
2916 (A) bank card;
2917 (B) credit card;
2918 (C) debit card; or
2919 (D) travel card; or
2920 (ii) by a charge made to a telephone number that is not associated with the origination
2921 or termination of the telecommunications service.

2922 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
2923 service, that would be a prepaid wireless calling service if the service were exclusively a
2924 telecommunications service.

2925 ~~[(92)]~~ (94) "Postproduction" means an activity related to the finishing or duplication of
2926 a medium described in Subsection 59-12-104~~[(54)]~~(46)(a).

2927 ~~[(93)]~~ (95) "Prepaid calling service" means a telecommunications service:

2928 (a) that allows a purchaser access to telecommunications service that is exclusively
2929 telecommunications service;

2930 (b) that:

2931 (i) is paid for in advance; and

2932 (ii) enables the origination of a call using an:

2933 (A) access number; or

2934 (B) authorization code;

2935 (c) that is dialed:

2936 (i) manually; or

2937 (ii) electronically; and

2938 (d) sold in predetermined units or dollars that decline:

2939 (i) by a known amount; and

2940 (ii) with use.

2941 ~~[(94)]~~ (96) "Prepaid wireless calling service" means a telecommunications service:

2942 (a) that provides the right to utilize:

2943 (i) mobile wireless service; and

2944 (ii) other service that is not a telecommunications service, including:

2945 (A) the download of a product transferred electronically;

- 2946 (B) a content service; or
2947 (C) an ancillary service;
2948 (b) that:
2949 (i) is paid for in advance; and
2950 (ii) enables the origination of a call using an:
2951 (A) access number; or
2952 (B) authorization code;
2953 (c) that is dialed:
2954 (i) manually; or
2955 (ii) electronically; and
2956 (d) sold in predetermined units or dollars that decline:
2957 (i) by a known amount; and
2958 (ii) with use.
2959 [~~(95)~~] (97) (a) "Prepared food" means:
2960 (i) food:
2961 (A) sold in a heated state; or
2962 (B) heated by a seller;
2963 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
2964 item; or
2965 (iii) except as provided in Subsection [~~(95)~~] (97)(c), food sold with an eating utensil
2966 provided by the seller, including a:
2967 (A) plate;
2968 (B) knife;
2969 (C) fork;
2970 (D) spoon;
2971 (E) glass;
2972 (F) cup;
2973 (G) napkin; or
2974 (H) straw.
2975 (b) "Prepared food" does not include:
2976 (i) food that a seller only:

- 2977 (A) cuts;
- 2978 (B) repackages; or
- 2979 (C) pasteurizes; or
- 2980 (ii) (A) the following:
- 2981 (I) raw egg;
- 2982 (II) raw fish;
- 2983 (III) raw meat;
- 2984 (IV) raw poultry; or
- 2985 (V) a food containing an item described in Subsections [~~(95)~~] (97)(b)(ii)(A)(I) through
- 2986 (IV); and
- 2987 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 2988 Food and Drug Administration's Food Code that a consumer cook the items described in
- 2989 Subsection [~~(95)~~] (97)(b)(ii)(A) to prevent food borne illness; or
- 2990 (iii) the following if sold without eating utensils provided by the seller:
- 2991 (A) food and food ingredients sold by a seller if the seller's proper primary
- 2992 classification under the 2002 North American Industry Classification System of the federal
- 2993 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 2994 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 2995 Manufacturing;
- 2996 (B) food and food ingredients sold in an unheated state:
- 2997 (I) by weight or volume; and
- 2998 (II) as a single item; or
- 2999 (C) a bakery item, including:
- 3000 (I) a bagel;
- 3001 (II) a bar;
- 3002 (III) a biscuit;
- 3003 (IV) bread;
- 3004 (V) a bun;
- 3005 (VI) a cake;
- 3006 (VII) a cookie;
- 3007 (VIII) a croissant;

3008 (IX) a danish;

3009 (X) a donut;

3010 (XI) a muffin;

3011 (XII) a pastry;

3012 (XIII) a pie;

3013 (XIV) a roll;

3014 (XV) a tart;

3015 (XVI) a torte; or

3016 (XVII) a tortilla.

3017 (c) An eating utensil provided by the seller does not include the following used to
3018 transport the food:

3019 (i) a container; or

3020 (ii) packaging.

3021 ~~[(96)]~~ (98) "Prescription" means an order, formula, or recipe that is issued:

3022 (a) (i) orally;

3023 (ii) in writing;

3024 (iii) electronically; or

3025 (iv) by any other manner of transmission; and

3026 (b) by a licensed practitioner authorized by the laws of a state.

3027 ~~[(97)]~~ (99) (a) ~~[Except as provided in Subsection (97)(b)(ii) or (iii), "prewritten]~~

3028 "Prewritten computer software" means computer software that is not designed and developed:

3029 (i) by the author or other creator of the computer software; and

3030 (ii) to the specifications of a specific purchaser.

3031 (b) "Prewritten computer software" includes:

3032 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
3033 software is not designed and developed:

3034 (A) by the author or other creator of the computer software; and

3035 (B) to the specifications of a specific purchaser;

3036 (ii) computer software designed and developed by the author or other creator of the

3037 computer software to the specifications of a specific purchaser if the computer software is sold

3038 to a person other than the purchaser; or

(iii) except as provided in Subsection ~~[(97)]~~ (99)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection ~~[(97)]~~ (99)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection ~~[(97)]~~ (99)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

~~[(98)]~~ (100) (a) "Private communications service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

~~[(99)]~~ (101) (a) ~~[Except as provided in Subsection (99)(b), "product"]~~ "Product

3070 transferred electronically" means a product transferred electronically that would be subject to a
3071 tax under this chapter if that product was transferred in a manner other than electronically.

3072 (b) "Product transferred electronically" does not include:

3073 (i) an ancillary service;

3074 (ii) computer software; or

3075 (iii) a telecommunications service.

3076 ~~[(100)]~~ (102) (a) "Prosthetic device" means a device that is worn on or in the body to:

3077 (i) artificially replace a missing portion of the body;

3078 (ii) prevent or correct a physical deformity or physical malfunction; or

3079 (iii) support a weak or deformed portion of the body.

3080 (b) "Prosthetic device" includes:

3081 (i) parts used in the repairs or renovation of a prosthetic device;

3082 (ii) replacement parts for a prosthetic device;

3083 (iii) a dental prosthesis; or

3084 (iv) a hearing aid.

3085 (c) "Prosthetic device" does not include:

3086 (i) corrective eyeglasses; or

3087 (ii) contact lenses.

3088 ~~[(101)]~~ (103) (a) "Protective equipment" means an item:

3089 (i) for human wear; and

3090 (ii) that is:

3091 (A) designed as protection:

3092 (I) to the wearer against injury or disease; or

3093 (II) against damage or injury of other persons or property; and

3094 (B) not suitable for general use.

3095 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3096 commission shall make rules:

3097 (i) listing the items that constitute "protective equipment"; and

3098 (ii) that are consistent with the list of items that constitute "protective equipment"

3099 under the agreement.

3100 ~~[(102)]~~ (104) (a) For purposes of Subsection 59-12-104~~[(41)]~~(36), "publication" means

3101 any written or printed matter, other than a photocopy:

3102 (i) regardless of:

3103 (A) characteristics;

3104 (B) copyright;

3105 (C) form;

3106 (D) format;

3107 (E) method of reproduction; or

3108 (F) source; and

3109 (ii) made available in printed or electronic format.

3110 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3111 commission may by rule define the term "photocopy."

3112 ~~[(103)]~~ (105) (a) "Purchase price" and "sales price" mean the total amount of
3113 consideration:

3114 (i) valued in money; and

3115 (ii) for which tangible personal property, a product transferred electronically, or
3116 services are:

3117 (A) sold;

3118 (B) leased; or

3119 (C) rented.

3120 (b) "Purchase price" and "sales price" include:

3121 (i) the seller's cost of the tangible personal property, a product transferred
3122 electronically, or services sold;

3123 (ii) expenses of the seller, including:

3124 (A) the cost of materials used;

3125 (B) a labor cost;

3126 (C) a service cost;

3127 (D) interest;

3128 (E) a loss;

3129 (F) the cost of transportation to the seller; or

3130 (G) a tax imposed on the seller;

3131 (iii) a delivery charge; or

3132 (iv) an installation charge;
3133 [~~(iii)~~] (v) a charge by the seller for any service necessary to complete the sale; or
3134 [~~(iv)~~] (vi) consideration a seller receives from a person other than the purchaser if:
3135 (A) (I) the seller actually receives consideration from a person other than the purchaser;
3136 and
3137 (II) the consideration described in Subsection [~~(103)~~] (105)(b)[~~(iv)~~](vi)(A)(I) is directly
3138 related to a price reduction or discount on the sale;
3139 (B) the seller has an obligation to pass the price reduction or discount through to the
3140 purchaser;
3141 (C) the amount of the consideration attributable to the sale is fixed and determinable by
3142 the seller at the time of the sale to the purchaser; and
3143 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
3144 seller to claim a price reduction or discount; and
3145 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
3146 coupon, or other documentation with the understanding that the person other than the seller
3147 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
3148 (II) the purchaser identifies that purchaser to the seller as a member of a group or
3149 organization allowed a price reduction or discount, except that a preferred customer card that is
3150 available to any patron of a seller does not constitute membership in a group or organization
3151 allowed a price reduction or discount; or
3152 (III) the price reduction or discount is identified as a third party price reduction or
3153 discount on the:
3154 (Aa) invoice the purchaser receives; or
3155 (Bb) certificate, coupon, or other documentation the purchaser presents.
3156 (c) "Purchase price" and "sales price" do not include:
3157 (i) a discount:
3158 (A) in a form including:
3159 (I) cash;
3160 (II) term; or
3161 (III) coupon;
3162 (B) that is allowed by a seller;

3163 (C) taken by a purchaser on a sale; and
3164 (D) that is not reimbursed by a third party; or
3165 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
3166 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
3167 sale or later, as demonstrated by the books and records the seller keeps at the time of the
3168 transaction in the regular course of business, including books and records the seller keeps at the
3169 time of the transaction in the regular course of business for nontax purposes, by a
3170 preponderance of the facts and circumstances at the time of the transaction, and by the
3171 understanding of all of the parties to the transaction:
3172 (A) the following from credit extended on the sale of tangible personal property or
3173 services:
3174 (I) a carrying charge;
3175 (II) a financing charge; or
3176 (III) an interest charge;
3177 [~~(B) a delivery charge;~~]
3178 [~~(C) an installation charge;~~]
3179 [~~(D)~~] (B) a manufacturer rebate on a motor vehicle; or
3180 [~~(E)~~] (C) a tax or fee legally imposed directly on the consumer.
3181 [~~(104)~~] (106) "Purchaser" means a person to whom:
3182 (a) a sale of tangible personal property is made;
3183 (b) a product is transferred electronically; or
3184 (c) a service is furnished.
3185 [~~(105)~~] (107) "Qualifying [~~enterprise~~] data center" means [~~an establishment that will:~~
3186 ~~(a) own and operate~~] a data center facility that [~~will house~~]:
3187 (a) houses a group of networked server computers in one physical location in order to
3188 [~~centralize the dissemination, management, and storage of~~] disseminate, manage, and store data
3189 and information;
3190 (b) [~~be~~] is located in the state;
3191 (c) [~~be~~] is a new operation constructed on or after July 1, 2016;
3192 (d) [~~consist~~] consists of one or more buildings that total 150,000 or more square feet;
3193 (e) [~~be~~] is owned or leased by:

- 3194 (i) the ~~[establishment]~~ operator of the data center facility; or
- 3195 (ii) a person under common ownership, as defined in Section 59-7-101, of the
- 3196 ~~[establishment]~~ operator of the data center facility; and
- 3197 (f) ~~[be]~~ is located on one or more parcels of land that are owned or leased by:
- 3198 (i) the ~~[establishment]~~ operator of the data center facility; or
- 3199 (ii) a person under common ownership, as defined in Section 59-7-101, of the
- 3200 ~~[establishment]~~ operator of the data center facility.
- 3201 ~~[(106)]~~ (108) "Regularly rented" means:
- 3202 (a) rented to a guest for value three or more times during a calendar year; or
- 3203 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 3204 value.
- 3205 ~~[(107)]~~ (109) "Rental" means the same as that term is defined in Subsection ~~[(60)]~~ (61).
- 3206 ~~[(108)]~~ (110) (a) ~~[Except as provided in Subsection (108)(b), "repairs"]~~ "Repairs or
- 3207 renovations of tangible personal property" means:
- 3208 (i) a repair or renovation of tangible personal property that is not permanently attached
- 3209 to real property; or
- 3210 (ii) attaching tangible personal property or a product transferred electronically to other
- 3211 tangible personal property or detaching tangible personal property or a product transferred
- 3212 electronically from other tangible personal property if:
- 3213 (A) the other tangible personal property to which the tangible personal property or
- 3214 product transferred electronically is attached or from which the tangible personal property or
- 3215 product transferred electronically is detached is not permanently attached to real property; and
- 3216 (B) the attachment of tangible personal property or a product transferred electronically
- 3217 to other tangible personal property or detachment of tangible personal property or a product
- 3218 transferred electronically from other tangible personal property is made in conjunction with a
- 3219 repair or replacement of tangible personal property or a product transferred electronically.
- 3220 (b) "Repairs or renovations of tangible personal property" does not include:
- 3221 (i) attaching prewritten computer software to other tangible personal property if the
- 3222 other tangible personal property to which the prewritten computer software is attached is not
- 3223 permanently attached to real property; or
- 3224 (ii) detaching prewritten computer software from other tangible personal property if the

3225 other tangible personal property from which the prewritten computer software is detached is
3226 not permanently attached to real property.

3227 ~~[(109)]~~ (111) "Research and development" means the process of inquiry or
3228 experimentation aimed at the discovery of facts, devices, technologies, or applications and the
3229 process of preparing those devices, technologies, or applications for marketing.

3230 ~~[(110)]~~ (112) (a) "Residential telecommunications services" means a
3231 telecommunications service or an ancillary service that is provided to an individual for personal
3232 use:

3233 (i) at a residential address; or

3234 (ii) at an institution, including a nursing home or a school, if the telecommunications
3235 service or ancillary service is provided to and paid for by the individual residing at the
3236 institution rather than the institution.

3237 (b) For purposes of Subsection ~~[(110)]~~ (112)(a)(i), a residential address includes an:

3238 (i) apartment; or

3239 (ii) other individual dwelling unit.

3240 ~~[(111)]~~ (113) "Residential use" means the use in or around a home, apartment building,
3241 sleeping quarters, and similar facilities or accommodations.

3242 ~~[(112)]~~ (114) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
3243 other than:

3244 (a) resale;

3245 (b) sublease; or

3246 (c) subrent.

3247 ~~[(113)]~~ (115) (a) "Retailer" means any person, unless prohibited by the Constitution of
3248 the United States or federal law, that is engaged in a regularly organized business in tangible
3249 personal property or any other taxable transaction under Subsection 59-12-103(1), and who is
3250 selling to the user or consumer and not for resale.

3251 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
3252 engaged in the business of selling to users or consumers within the state.

3253 ~~[(114)]~~ (116) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
3254 otherwise, in any manner, of tangible personal property or any other taxable transaction under
3255 Subsection 59-12-103(1), for consideration.

3256 (b) "Sale" includes:
3257 (i) installment and credit sales;
3258 (ii) any closed transaction constituting a sale;
3259 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
3260 chapter;
3261 (iv) any transaction if the possession of property is transferred but the seller retains the
3262 title as security for the payment of the price; and
3263 (v) any transaction under which right to possession, operation, or use of any article of
3264 tangible personal property is granted under a lease or contract and the transfer of possession
3265 would be taxable if an outright sale were made.
3266 ~~[(115)]~~ (117) "Sale at retail" means the same as that term is defined in Subsection
3267 ~~[(112)]~~ (114).
3268 ~~[(116)]~~ (118) "Sale-leaseback transaction" means a transaction by which title to
3269 tangible personal property or a product transferred electronically that is subject to a tax under
3270 this chapter is transferred:
3271 (a) by a purchaser-lessee;
3272 (b) to a lessor;
3273 (c) for consideration; and
3274 (d) if:
3275 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
3276 of the tangible personal property or product transferred electronically;
3277 (ii) the sale of the tangible personal property or product transferred electronically to the
3278 lessor is intended as a form of financing:
3279 (A) for the tangible personal property or product transferred electronically; and
3280 (B) to the purchaser-lessee; and
3281 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
3282 is required to:
3283 (A) capitalize the tangible personal property or product transferred electronically for
3284 financial reporting purposes; and
3285 (B) account for the lease payments as payments made under a financing arrangement.
3286 ~~[(117)]~~ (119) "Sales price" means the same as that term is defined in Subsection

3287 ~~[(103)]~~ (105).

3288 ~~[(118)]~~ (120) (a) "Sales relating to schools" means the following sales by, amounts

3289 paid to, or amounts charged by a school:

3290 (i) sales that are directly related to the school's educational functions or activities

3291 including:

3292 (A) the sale of:

3293 (I) textbooks;

3294 (II) textbook fees;

3295 (III) laboratory fees;

3296 (IV) laboratory supplies; or

3297 (V) safety equipment;

3298 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

3299 that:

3300 (I) a student is specifically required to wear as a condition of participation in a

3301 school-related event or school-related activity; and

3302 (II) is not readily adaptable to general or continued usage to the extent that it takes the

3303 place of ordinary clothing;

3304 (C) sales of the following if the net or gross revenues generated by the sales are

3305 deposited into a school district fund or school fund dedicated to school meals:

3306 (I) food and food ingredients; or

3307 (II) prepared food; or

3308 (D) transportation charges for official school activities; or

3309 (ii) amounts paid to or amounts charged by a school for admission to a school-related

3310 event or school-related activity.

3311 (b) "Sales relating to schools" does not include:

3312 (i) bookstore sales of items that are not educational materials or supplies;

3313 (ii) except as provided in Subsection ~~[(118)]~~ (120)(a)(i)(B):

3314 (A) clothing;

3315 (B) clothing accessories or equipment;

3316 (C) protective equipment; or

3317 (D) sports or recreational equipment; or

3318 (iii) amounts paid to or amounts charged by a school for admission to a school-related
3319 event or school-related activity if the amounts paid or charged are passed through to a person:

3320 (A) other than a:

3321 (I) school;

3322 (II) nonprofit organization authorized by a school board or a governing body of a
3323 private school to organize and direct a competitive secondary school activity; or

3324 (III) nonprofit association authorized by a school board or a governing body of a
3325 private school to organize and direct a competitive secondary school activity; and

3326 (B) that is required to collect sales and use taxes under this chapter.

3327 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3328 commission may make rules defining the term "passed through."

3329 ~~[(119)]~~ (121) For purposes of this section and Section 59-12-104, "school" means:

3330 (a) an elementary school or a secondary school that:

3331 (i) is a:

3332 (A) public school; or

3333 (B) private school; and

3334 (ii) provides instruction for one or more grades kindergarten through 12; or

3335 (b) a public school district.

3336 (122) "Security system monitoring" means the service of monitoring signals from an
3337 alarm system, as defined in Section 58-55-102, regardless of whether the monitoring is
3338 performed electronically or by an individual.

3339 ~~[(120)]~~ (123) (a) "Seller" means a person that makes a sale, lease, or rental of:

3340 (i) tangible personal property;

3341 (ii) a product transferred electronically; or

3342 (iii) a service.

3343 (b) "Seller" includes a marketplace facilitator.

3344 (124) "Seller-hosted prewritten computer software" means prewritten computer
3345 software that is accessed through the Internet or a seller-hosted server, regardless of whether:

3346 (a) the access is permanent; or

3347 (b) any downloading occurs.

3348 ~~[(121)]~~ (125) (a) "Semiconductor fabricating, processing, research, or development

3349 materials" means tangible personal property or a product transferred electronically if the
3350 tangible personal property or product transferred electronically is:

3351 (i) used primarily in the process of:

3352 (A) (I) manufacturing a semiconductor;

3353 (II) fabricating a semiconductor; or

3354 (III) research or development of a:

3355 (Aa) semiconductor; or

3356 (Bb) semiconductor manufacturing process; or

3357 (B) maintaining an environment suitable for a semiconductor; or

3358 (ii) consumed primarily in the process of:

3359 (A) (I) manufacturing a semiconductor;

3360 (II) fabricating a semiconductor; or

3361 (III) research or development of a:

3362 (Aa) semiconductor; or

3363 (Bb) semiconductor manufacturing process; or

3364 (B) maintaining an environment suitable for a semiconductor.

3365 (b) "Semiconductor fabricating, processing, research, or development materials"

3366 includes:

3367 (i) parts used in the repairs or renovations of tangible personal property or a product
3368 transferred electronically described in Subsection ~~[(121)]~~ (125)(a); or

3369 (ii) a chemical, catalyst, or other material used to:

3370 (A) produce or induce in a semiconductor a:

3371 (I) chemical change; or

3372 (II) physical change;

3373 (B) remove impurities from a semiconductor; or

3374 (C) improve the marketable condition of a semiconductor.

3375 ~~[(122)]~~ (126) "Senior citizen center" means a facility having the primary purpose of
3376 providing services to the aged as defined in Section 62A-3-101.

3377 ~~[(123)]~~ (127) (a) ~~[Subject to Subsections (123)(b) and (c), "short-term"]~~ "Short-term
3378 lodging consumable" means tangible personal property that:

3379 (i) a business that provides accommodations and services described in Subsection

3380 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services
3381 to a purchaser;
3382 (ii) is intended to be consumed by the purchaser; and
3383 (iii) is:
3384 (A) included in the purchase price of the accommodations and services; and
3385 (B) not separately stated on an invoice, bill of sale, or other similar document provided
3386 to the purchaser.
3387 (b) "Short-term lodging consumable" includes:
3388 (i) a beverage;
3389 (ii) a brush or comb;
3390 (iii) a cosmetic;
3391 (iv) a hair care product;
3392 (v) lotion;
3393 (vi) a magazine;
3394 (vii) makeup;
3395 (viii) a meal;
3396 (ix) mouthwash;
3397 (x) nail polish remover;
3398 (xi) a newspaper;
3399 (xii) a notepad;
3400 (xiii) a pen;
3401 (xiv) a pencil;
3402 (xv) a razor;
3403 (xvi) saline solution;
3404 (xvii) a sewing kit;
3405 (xviii) shaving cream;
3406 (xix) a shoe shine kit;
3407 (xx) a shower cap;
3408 (xxi) a snack item;
3409 (xxii) soap;
3410 (xxiii) toilet paper;

3411 (xxiv) a toothbrush;
3412 (xxv) toothpaste; or
3413 (xxvi) an item similar to Subsections ~~[(123)]~~ (127)(b)(i) through (xxv) as the
3414 commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah
3415 Administrative Rulemaking Act.

3416 (c) "Short-term lodging consumable" does not include:
3417 (i) tangible personal property that is cleaned or washed to allow the tangible personal
3418 property to be reused; or
3419 (ii) a product transferred electronically.

3420 ~~[(124)]~~ (128) "Simplified electronic return" means the electronic return:
3421 (a) described in Section 318(C) of the agreement; and
3422 (b) approved by the governing board of the agreement.

3423 ~~[(125)]~~ (129) "Solar energy" means the sun used as the sole source of energy for
3424 producing electricity.

3425 ~~[(126)]~~ (130) (a) "Sports or recreational equipment" means an item:
3426 (i) designed for human use; and
3427 (ii) that is:
3428 (A) worn in conjunction with:
3429 (I) an athletic activity; or
3430 (II) a recreational activity; and
3431 (B) not suitable for general use.

3432 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3433 commission shall make rules:
3434 (i) listing the items that constitute "sports or recreational equipment"; and
3435 (ii) that are consistent with the list of items that constitute "sports or recreational
3436 equipment" under the agreement.

3437 ~~[(127)]~~ (131) "State" means the state of Utah, its departments, and agencies.

3438 ~~[(128)]~~ (132) "Storage" means any keeping or retention of tangible personal property or
3439 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
3440 except sale in the regular course of business.

3441 ~~[(129)]~~ (133) (a) ~~[Except as provided in Subsection (129)(d) or (e), "tangible"]~~

3442 "Tangible personal property" means personal property that:

3443 (i) may be:

3444 (A) seen;

3445 (B) weighed;

3446 (C) measured;

3447 (D) felt; or

3448 (E) touched; or

3449 (ii) is in any manner perceptible to the senses.

3450 (b) "Tangible personal property" includes:

3451 (i) electricity;

3452 (ii) water;

3453 (iii) gas;

3454 (iv) steam; or

3455 (v) prewritten computer software, regardless of the manner in which the prewritten

3456 computer software is transferred.

3457 (c) "Tangible personal property" includes the following regardless of whether the item

3458 is attached to real property:

3459 (i) a dishwasher;

3460 (ii) a dryer;

3461 (iii) a freezer;

3462 (iv) a microwave;

3463 (v) a refrigerator;

3464 (vi) a stove;

3465 (vii) a washer; or

3466 (viii) an item similar to Subsections [~~(129)~~] (133)(c)(i) through (vii) as determined by

3467 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

3468 Rulemaking Act.

3469 (d) "Tangible personal property" does not include a product that is transferred

3470 electronically.

3471 (e) "Tangible personal property" does not include the following if attached to real

3472 property, regardless of whether the attachment to real property is only through a line that

3473 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
3474 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
3475 Rulemaking Act:

- 3476 (i) a hot water heater;
- 3477 (ii) a water filtration system; or
- 3478 (iii) a water softener system.

3479 ~~[(130)]~~ (134) (a) "Telecommunications enabling or facilitating equipment, machinery,
3480 or software" means an item listed in Subsection ~~[(130)]~~ (134)(b) if that item is purchased or
3481 leased primarily to enable or facilitate one or more of the following to function:

- 3482 (i) telecommunications switching or routing equipment, machinery, or software; or
- 3483 (ii) telecommunications transmission equipment, machinery, or software.

3484 (b) The following apply to Subsection ~~[(130)]~~ (134)(a):

- 3485 (i) a pole;
- 3486 (ii) software;
- 3487 (iii) a supplementary power supply;
- 3488 (iv) temperature or environmental equipment or machinery;
- 3489 (v) test equipment;
- 3490 (vi) a tower; or
- 3491 (vii) equipment, machinery, or software that functions similarly to an item listed in

3492 Subsections ~~[(130)]~~ (134)(b)(i) through (vi) as determined by the commission by rule made in
3493 accordance with Subsection ~~[(130)]~~ (134)(c).

3494 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3495 commission may by rule define what constitutes equipment, machinery, or software that
3496 functions similarly to an item listed in Subsections ~~[(130)]~~ (134)(b)(i) through (vi).

3497 ~~[(131)]~~ (135) "Telecommunications equipment, machinery, or software required for
3498 911 service" means equipment, machinery, or software that is required to comply with 47
3499 C.F.R. Sec. 20.18.

3500 ~~[(132)]~~ (136) "Telecommunications maintenance or repair equipment, machinery, or
3501 software" means equipment, machinery, or software purchased or leased primarily to maintain
3502 or repair one or more of the following, regardless of whether the equipment, machinery, or
3503 software is purchased or leased as a spare part or as an upgrade or modification to one or more

3504 of the following:

3505 (a) telecommunications enabling or facilitating equipment, machinery, or software;

3506 (b) telecommunications switching or routing equipment, machinery, or software; or

3507 (c) telecommunications transmission equipment, machinery, or software.

3508 [~~(133)~~] (137) (a) "Telecommunications service" means the electronic conveyance,

3509 routing, or transmission of audio, data, video, voice, or any other information or signal to a

3510 point, or among or between points.

3511 (b) "Telecommunications service" includes:

3512 (i) an electronic conveyance, routing, or transmission with respect to which a computer

3513 processing application is used to act:

3514 (A) on the code, form, or protocol of the content;

3515 (B) for the purpose of electronic conveyance, routing, or transmission; and

3516 (C) regardless of whether the service:

3517 (I) is referred to as voice over Internet protocol service; or

3518 (II) is classified by the Federal Communications Commission as enhanced or value

3519 added;

3520 (ii) an 800 service;

3521 (iii) a 900 service;

3522 (iv) a fixed wireless service;

3523 (v) a mobile wireless service;

3524 (vi) a postpaid calling service;

3525 (vii) a prepaid calling service;

3526 (viii) a prepaid wireless calling service; or

3527 (ix) a private communications service.

3528 (c) "Telecommunications service" does not include:

3529 (i) advertising, including directory advertising;

3530 (ii) an ancillary service;

3531 (iii) a billing and collection service provided to a third party;

3532 (iv) a data processing and information service if:

3533 (A) the data processing and information service allows data to be:

3534 (I) (Aa) acquired;

3535 (Bb) generated;
3536 (Cc) processed;
3537 (Dd) retrieved; or
3538 (Ee) stored; and
3539 (II) delivered by an electronic transmission to a purchaser; and
3540 (B) the purchaser's primary purpose for the underlying transaction is the processed data
3541 or information;
3542 (v) installation or maintenance of the following on a customer's premises:
3543 (A) equipment; or
3544 (B) wiring;
3545 (vi) Internet access service;
3546 (vii) a paging service;
3547 (viii) a product transferred electronically, including:
3548 (A) music;
3549 (B) reading material;
3550 (C) a ring tone;
3551 (D) software; or
3552 (E) video;
3553 (ix) a radio and television audio and video programming service:
3554 (A) regardless of the medium; and
3555 (B) including:
3556 (I) furnishing conveyance, routing, or transmission of a television audio and video
3557 programming service by a programming service provider;
3558 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
3559 (III) audio and video programming services delivered by a commercial mobile radio
3560 service provider as defined in 47 C.F.R. Sec. 20.3;
3561 (x) a value-added nonvoice data service; or
3562 (xi) tangible personal property.
3563 ~~[(134)]~~ (138) (a) "Telecommunications service provider" means a person that:
3564 (i) owns, controls, operates, or manages a telecommunications service; and
3565 (ii) engages in an activity described in Subsection ~~[(134)]~~ (138)(a)(i) for the shared use

3566 with or resale to any person of the telecommunications service.

3567 (b) A person described in Subsection [~~(134)~~] (138)(a) is a telecommunications service
3568 provider whether or not the Public Service Commission of Utah regulates:

3569 (i) that person; or

3570 (ii) the telecommunications service that the person owns, controls, operates, or
3571 manages.

3572 [~~(135)~~] (139) (a) "Telecommunications switching or routing equipment, machinery, or
3573 software" means an item listed in Subsection [~~(135)~~] (139)(b) if that item is purchased or
3574 leased primarily for switching or routing:

3575 (i) an ancillary service;

3576 (ii) data communications;

3577 (iii) voice communications; or

3578 (iv) telecommunications service.

3579 (b) The following apply to Subsection [~~(135)~~] (139)(a):

3580 (i) a bridge;

3581 (ii) a computer;

3582 (iii) a cross connect;

3583 (iv) a modem;

3584 (v) a multiplexer;

3585 (vi) plug in circuitry;

3586 (vii) a router;

3587 (viii) software;

3588 (ix) a switch; or

3589 (x) equipment, machinery, or software that functions similarly to an item listed in
3590 Subsections [~~(135)~~] (139)(b)(i) through (ix) as determined by the commission by rule made in
3591 accordance with Subsection [~~(135)~~] (139)(c).

3592 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3593 commission may by rule define what constitutes equipment, machinery, or software that
3594 functions similarly to an item listed in Subsections [~~(135)~~] (139)(b)(i) through (ix).

3595 [~~(136)~~] (140) (a) "Telecommunications transmission equipment, machinery, or
3596 software" means an item listed in Subsection [~~(136)~~] (140)(b) if that item is purchased or

3597 leased primarily for sending, receiving, or transporting:

- 3598 (i) an ancillary service;
- 3599 (ii) data communications;
- 3600 (iii) voice communications; or
- 3601 (iv) telecommunications service.

3602 (b) The following apply to Subsection [~~(136)~~] (140)(a):

- 3603 (i) an amplifier;
- 3604 (ii) a cable;
- 3605 (iii) a closure;
- 3606 (iv) a conduit;
- 3607 (v) a controller;
- 3608 (vi) a duplexer;
- 3609 (vii) a filter;
- 3610 (viii) an input device;
- 3611 (ix) an input/output device;
- 3612 (x) an insulator;
- 3613 (xi) microwave machinery or equipment;
- 3614 (xii) an oscillator;
- 3615 (xiii) an output device;
- 3616 (xiv) a pedestal;
- 3617 (xv) a power converter;
- 3618 (xvi) a power supply;
- 3619 (xvii) a radio channel;
- 3620 (xviii) a radio receiver;
- 3621 (xix) a radio transmitter;
- 3622 (xx) a repeater;
- 3623 (xxi) software;
- 3624 (xxii) a terminal;
- 3625 (xxiii) a timing unit;
- 3626 (xxiv) a transformer;
- 3627 (xxv) a wire; or

3628 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
3629 Subsections ~~[(136)]~~ (140)(b)(i) through (xxv) as determined by the commission by rule made in
3630 accordance with Subsection ~~[(136)]~~ (140)(c).

3631 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3632 commission may by rule define what constitutes equipment, machinery, or software that
3633 functions similarly to an item listed in Subsections ~~[(136)]~~ (140)(b)(i) through (xxv).

3634 ~~[(137) (a) "Textbook for a higher education course" means a textbook or other printed~~
3635 ~~material that is required for a course:]~~

3636 ~~[(i) offered by an institution of higher education; and]~~

3637 ~~[(ii) that the purchaser of the textbook or other printed material attends or will attend.]~~

3638 ~~[(b) "Textbook for a higher education course" includes a textbook in electronic~~
3639 ~~format:]~~

3640 ~~[(138)]~~ (141) "Tobacco" means:

3641 (a) a cigarette;

3642 (b) a cigar;

3643 (c) chewing tobacco;

3644 (d) pipe tobacco; or

3645 (e) any other item that contains tobacco.

3646 ~~[(139)]~~ (142) "Unassisted amusement device" means an amusement device, skill
3647 device, or ride device that is started ~~[and]~~ or stopped by the purchaser or renter of the right to
3648 use or operate the amusement device, skill device, or ride device.

3649 ~~[(140)]~~ (143) (a) "Use" means the exercise of any right or power over tangible personal
3650 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
3651 incident to the ownership or the leasing of that tangible personal property, product transferred
3652 electronically, or service.

3653 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
3654 property, a product transferred electronically, or a service in the regular course of business and
3655 held for resale.

3656 ~~[(141)]~~ (144) "Value-added nonvoice data service" means a service:

3657 (a) that otherwise meets the definition of a telecommunications service except that a
3658 computer processing application is used to act primarily for a purpose other than conveyance,

3659 routing, or transmission; and

3660 (b) with respect to which a computer processing application is used to act on data or
3661 information:

3662 (i) code;

3663 (ii) content;

3664 (iii) form; or

3665 (iv) protocol.

3666 ~~[(142)]~~ (145) (a) Subject to Subsection ~~[(142)]~~ (145)(b), "vehicle" means the following
3667 that are required to be titled, registered, or titled and registered:

3668 (i) an aircraft as defined in Section 72-10-102;

3669 (ii) a vehicle as defined in Section 41-1a-102;

3670 (iii) an off-highway vehicle as defined in Section 41-22-2; or

3671 (iv) a vessel as defined in Section 41-1a-102.

3672 (b) For purposes of Subsection 59-12-104~~[(33)]~~(30) only, "vehicle" includes:

3673 (i) a vehicle described in Subsection ~~[(142)]~~ (145)(a); or

3674 (ii) (A) a locomotive;

3675 (B) a freight car;

3676 (C) railroad work equipment; or

3677 (D) other railroad rolling stock.

3678 ~~[(143)]~~ (146) "Vehicle dealer" means a person engaged in the business of buying,
3679 selling, or exchanging a vehicle ~~[as defined in Subsection (142)]~~.

3680 ~~[(144)]~~ (147) (a) "Vertical service" means an ancillary service that:

3681 (i) is offered in connection with one or more telecommunications services; and

3682 (ii) offers an advanced calling feature that allows a customer to:

3683 (A) identify a caller; and

3684 (B) manage multiple calls and call connections.

3685 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
3686 conference bridging service.

3687 ~~[(145)]~~ (148) (a) "Voice mail service" means an ancillary service that enables a
3688 customer to receive, send, or store a recorded message.

3689 (b) "Voice mail service" does not include a vertical service that a customer is required

3690 to have in order to utilize a voice mail service.

3691 ~~[(146)]~~ (149) (a) ~~[Except as provided in Subsection (146)(b), "waste"]~~ "Waste energy
3692 facility" means a facility that generates electricity:

3693 (i) using as the primary source of energy waste materials that would be placed in a
3694 landfill or refuse pit if it were not used to generate electricity, including:

3695 (A) tires;

3696 (B) waste coal;

3697 (C) oil shale; or

3698 (D) municipal solid waste; and

3699 (ii) in amounts greater than actually required for the operation of the facility.

3700 (b) "Waste energy facility" does not include a facility that incinerates:

3701 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

3702 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

3703 ~~[(147)]~~ (150) "Watercraft" means a vessel as defined in Section 73-18-2.

3704 ~~[(148)]~~ (151) "Wind energy" means wind used as the sole source of energy to produce
3705 electricity.

3706 ~~[(149)]~~ (152) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
3707 geographic location by the United States Postal Service.

3708 Section 41. Section **59-12-103** is amended to read:

3709 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
3710 **tax revenue.**

3711 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or
3712 sales price for amounts paid or charged for the following transactions:

3713 (a) retail sales of tangible personal property made within the state;

3714 (b) amounts paid for:

3715 (i) telecommunications service, other than mobile telecommunications service or a 900
3716 service, that originates and terminates within the boundaries of this state;

3717 (ii) mobile telecommunications service that originates and terminates within the
3718 boundaries of one state only to the extent permitted by the Mobile Telecommunications

3719 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; ~~[or]~~

3720 (iii) a 900 service; or

3721 ~~[(iii)]~~ (iv) an ancillary service associated with a:
3722 (A) telecommunications service described in Subsection (1)(b)(i); ~~[or]~~
3723 (B) mobile telecommunications service described in Subsection (1)(b)(ii); or
3724 (C) 900 service;
3725 (c) sales of the following for commercial use:
3726 (i) gas;
3727 (ii) electricity;
3728 (iii) heat;
3729 (iv) coal;
3730 (v) fuel oil; or
3731 (vi) other fuels;
3732 (d) sales of the following for residential use:
3733 (i) gas;
3734 (ii) electricity;
3735 (iii) heat;
3736 (iv) coal;
3737 (v) fuel oil; or
3738 (vi) other fuels;
3739 (e) sales of prepared food;
3740 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
3741 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
3742 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
3743 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
3744 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
3745 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
3746 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
3747 horseback rides, sports activities, or any other amusement, entertainment, recreation,
3748 exhibition, cultural, or athletic activity;
3749 (g) amounts paid or charged for services for repairs or renovations of tangible personal
3750 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
3751 (i) the tangible personal property; and

3752 (ii) parts used in the repairs or renovations of the tangible personal property described
3753 in Subsection (1)(g)(i), regardless of whether:

3754 (A) any parts are actually used in the repairs or renovations of that tangible personal
3755 property; or

3756 (B) the particular parts used in the repairs or renovations of that tangible personal
3757 property are exempt from a tax under this chapter;

3758 (h) ~~[except as provided in Subsection 59-12-104(7),]~~ amounts paid or charged for
3759 ~~[assisted]~~ cleaning or washing of tangible personal property;

3760 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
3761 accommodations and services that are regularly rented for less than 30 consecutive days;

3762 (j) amounts paid or charged for laundry or dry cleaning services;

3763 (k) amounts paid or charged for leases or rentals of tangible personal property if within
3764 this state the tangible personal property is:

3765 (i) stored;

3766 (ii) used; or

3767 (iii) otherwise consumed;

3768 (l) amounts paid or charged for tangible personal property if within this state the
3769 tangible personal property is:

3770 (i) stored;

3771 (ii) used; or

3772 (iii) consumed; ~~[and]~~

3773 (m) amounts paid or charged for a sale:

3774 (i) (A) of a product transferred electronically; or

3775 (B) of a repair or renovation of a product transferred electronically; and

3776 (ii) regardless of whether the sale provides:

3777 (A) a right of permanent use of the product; or

3778 (B) a right to use the product that is less than a permanent use, including a right:

3779 (I) for a definite or specified length of time; and

3780 (II) that terminates upon the occurrence of a condition~~[-]~~;

3781 (n) amounts paid or charged for access to digital audio-visual works, digital audio

3782 works, digital books, or gaming services, including the streaming of or subscription for access

3783 to digital audio-visual works, digital audio works, digital books, or gaming services regardless
 3784 of:

3785 (i) the delivery method; or

3786 (ii) whether the amount paid or charged for access provides a right to:

3787 (A) single-use access to the digital audio-visual works, digital audio works, digital
 3788 books, or gaming services; or

3789 (B) access the digital audio-visual works, digital audio works, digital books, or gaming
 3790 services through a subscription, including a right that terminates upon the occurrence of a
 3791 condition;

3792 (o) amounts paid or charged for the storage, use, or other consumption of:

3793 (i) prewritten computer software delivered electronically or by load and leave; or

3794 (ii) seller-hosted prewritten computer software; and

3795 (p) amounts paid or charged for the following services:

3796 (i) security system monitoring;

3797 (ii) personal transportation that originates in the state and terminates in the state;

3798 (iii) storage of tangible personal property not held for sale in the regular course of

3799 business;

3800 (iv) parking, garaging, or storing a motor vehicle, excluding valet;

3801 (v) tow truck service as defined in Section 72-9-102, including any related fees;

3802 (vi) pet boarding;

3803 (vii) pet daycare;

3804 (viii) dating referral services;

3805 (ix) identity theft protection.

3806 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
 3807 are imposed on a transaction described in Subsection (1) equal to the sum of:

3808 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

3809 ~~[(A) (I) through March 31, 2019, 4.70%; and]~~

3810 ~~[(H)]~~ (A) ~~[beginning on April 1, 2019,]~~ 4.70% plus the rate specified in Subsection

3811 (13)(a); and

3812 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
 3813 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

3814 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
3815 State Sales and Use Tax Act; and

3816 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
3817 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
3818 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
3819 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

3820 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3821 transaction under this chapter other than this part.

3822 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax are
3823 imposed on a transaction described in Subsection (1)(d) equal to the sum of:

3824 (i) a state tax imposed on the transaction at a tax rate of 2%; and

3825 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3826 transaction under this chapter other than this part.

3827 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax are
3828 imposed on amounts paid or charged for food and food ingredients equal to the sum of:

3829 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
3830 ~~[a tax rate of 1.75%]~~ the tax rate described in Subsection (2)(a)(i)(A); and

3831 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3832 amounts paid or charged for food and food ingredients under this chapter other than this part.

3833 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
3834 tangible personal property other than food and food ingredients, a state tax and a local tax is
3835 imposed on the entire bundled transaction equal to the sum of:

3836 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

3837 (I) the tax rate described in Subsection (2)(a)(i)(A); and

3838 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
3839 Sales and Use Tax Act, if the location of the transaction as determined under Sections
3840 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
3841 Additional State Sales and Use Tax Act; and

3842 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
3843 Sales and Use Tax Act, if the location of the transaction as determined under Sections
3844 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which

the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(d)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental

3876 of tangible personal property, other property, a product, or a service that is not subject to
3877 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
3878 the seller, at the time of the transaction:

3879 (A) separately states the portion of the transaction that is not subject to taxation under
3880 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

3881 (B) is able to identify by reasonable and verifiable standards, from the books and
3882 records the seller keeps in the seller's regular course of business, the portion of the transaction
3883 that is not subject to taxation under this chapter.

3884 (ii) A purchaser and a seller may correct the taxability of a transaction if:

3885 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
3886 the transaction that is not subject to taxation under this chapter was not separately stated on an
3887 invoice, bill of sale, or similar document provided to the purchaser because of an error or
3888 ignorance of the law; and

3889 (B) the seller is able to identify by reasonable and verifiable standards, from the books
3890 and records the seller keeps in the seller's regular course of business, the portion of the
3891 transaction that is not subject to taxation under this chapter.

3892 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps
3893 in the seller's regular course of business includes books and records the seller keeps in the
3894 regular course of business for nontax purposes.

3895 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible
3896 personal property, products, or services that are subject to taxation under this chapter at
3897 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
3898 unless the seller, at the time of the transaction:

3899 (A) separately states the items subject to taxation under this chapter at each of the
3900 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

3901 (B) is able to identify by reasonable and verifiable standards the tangible personal
3902 property, product, or service that is subject to taxation under this chapter at the lower tax rate
3903 from the books and records the seller keeps in the seller's regular course of business.

3904 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the
3905 seller's regular course of business includes books and records the seller keeps in the regular
3906 course of business for nontax purposes.

3907 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax
3908 rate imposed under the following shall take effect on the first day of a calendar quarter:

- 3909 (i) Subsection (2)(a)(i)(A);
- 3910 (ii) Subsection (2)(b)(i);
- 3911 (iii) Subsection (2)(c)(i); or
- 3912 (iv) Subsection (2)(d)(i)(A)(I).

3913 (h) (i) A tax rate increase takes effect on the first day of the first billing period that
3914 begins on or after the effective date of the tax rate increase if the billing period for the
3915 transaction begins before the effective date of a tax rate increase imposed under:

- 3916 (A) Subsection (2)(a)(i)(A);
- 3917 (B) Subsection (2)(b)(i);
- 3918 (C) Subsection (2)(c)(i); or
- 3919 (D) Subsection (2)(d)(i)(A)(I).

3920 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
3921 statement for the billing period is rendered on or after the effective date of the repeal of the tax
3922 or the tax rate decrease imposed under:

- 3923 (A) Subsection (2)(a)(i)(A);
- 3924 (B) Subsection (2)(b)(i);
- 3925 (C) Subsection (2)(c)(i); or
- 3926 (D) Subsection (2)(d)(i)(A)(I).

3927 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is
3928 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
3929 change in a tax rate takes effect:

- 3930 (A) on the first day of a calendar quarter; and
- 3931 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

3932 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

- 3933 (A) Subsection (2)(a)(i)(A);
- 3934 (B) Subsection (2)(b)(i);
- 3935 (C) Subsection (2)(c)(i); or
- 3936 (D) Subsection (2)(d)(i)(A)(I).

3937 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

3938 the commission may by rule define the term "catalogue sale."

3939 (3) If a transaction is not taxable under this chapter, no component of the purchase
 3940 price is taxable.

3941 ~~[(3)]~~ (4) (a) The following state taxes shall be deposited into the General Fund:

3942 (i) the tax imposed by Subsection (2)(a)(i)(A);

3943 (ii) the tax imposed by Subsection (2)(b)(i);

3944 (iii) the tax imposed by Subsection (2)(c)(i); or

3945 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

3946 (b) The following local taxes shall be distributed to a county, city, or town as provided
 3947 in this chapter:

3948 (i) the tax imposed by Subsection (2)(a)(ii);

3949 (ii) the tax imposed by Subsection (2)(b)(ii);

3950 (iii) the tax imposed by Subsection (2)(c)(ii); and

3951 (iv) the tax imposed by Subsection (2)(d)(i)(B).

3952 ~~[(4)]~~ (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after
 3953 July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections
 3954 (4)(b) through (g):

3955 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

3956 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

3957 (B) for the fiscal year; or

3958 (ii) \$17,500,000.

3959 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
 3960 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
 3961 Department of Natural Resources to:

3962 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
 3963 protect sensitive plant and animal species; or

3964 (B) award grants, up to the amount authorized by the Legislature in an appropriations
 3965 act, to political subdivisions of the state to implement the measures described in Subsections
 3966 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

3967 (ii) Money transferred to the Department of Natural Resources under Subsection
 3968 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other

3969 person to list or attempt to have listed a species as threatened or endangered under the
3970 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

3971 (iii) At the end of each fiscal year:

3972 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
3973 Conservation and Development Fund created in Section 73-10-24;

3974 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
3975 Program Subaccount created in Section 73-10c-5; and

3976 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
3977 Program Subaccount created in Section 73-10c-5.

3978 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
3979 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
3980 created in Section 4-18-106.

3981 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
3982 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
3983 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
3984 water rights.

3985 (ii) At the end of each fiscal year:

3986 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
3987 Conservation and Development Fund created in Section 73-10-24;

3988 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
3989 Program Subaccount created in Section 73-10c-5; and

3990 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
3991 Program Subaccount created in Section 73-10c-5.

3992 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
3993 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and
3994 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

3995 (ii) In addition to the uses allowed of the Water Resources Conservation and
3996 Development Fund under Section 73-10-24, the Water Resources Conservation and
3997 Development Fund may also be used to:

3998 (A) conduct hydrologic and geotechnical investigations by the Division of Water
3999 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of

4000 quantifying surface and ground water resources and describing the hydrologic systems of an
4001 area in sufficient detail so as to enable local and state resource managers to plan for and
4002 accommodate growth in water use without jeopardizing the resource;

4003 (B) fund state required dam safety improvements; and

4004 (C) protect the state's interest in interstate water compact allocations, including the
4005 hiring of technical and legal staff.

4006 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
4007 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount
4008 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

4009 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
4010 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
4011 created in Section 73-10c-5 for use by the Division of Drinking Water to:

4012 (i) provide for the installation and repair of collection, treatment, storage, and
4013 distribution facilities for any public water system, as defined in Section 19-4-102;

4014 (ii) develop underground sources of water, including springs and wells; and

4015 (iii) develop surface water sources.

4016 [~~(5)~~] (6) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after
4017 July 1, 2006, the difference between the following amounts shall be expended as provided in
4018 this Subsection (5), if that difference is greater than \$1:

4019 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
4020 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

4021 (ii) \$17,500,000.

4022 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

4023 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
4024 credits; and

4025 (B) expended by the Department of Natural Resources for watershed rehabilitation or
4026 restoration.

4027 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
4028 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
4029 created in Section 73-10-24.

4030 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the

4031 remaining difference described in Subsection (5)(a) shall be:

4032 (A) transferred each fiscal year to the Division of Water Resources as dedicated
4033 credits; and

4034 (B) expended by the Division of Water Resources for cloud-seeding projects
4035 authorized by Title 73, Chapter 15, Modification of Weather.

4036 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
4037 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
4038 created in Section 73-10-24.

4039 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the
4040 remaining difference described in Subsection (5)(a) shall be deposited into the Water
4041 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
4042 Division of Water Resources for:

4043 (i) preconstruction costs:

4044 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
4045 26, Bear River Development Act; and

4046 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
4047 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

4048 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
4049 Chapter 26, Bear River Development Act;

4050 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
4051 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

4052 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
4053 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

4054 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
4055 Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be
4056 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
4057 incurred for employing additional technical staff for the administration of water rights.

4058 (f) At the end of each fiscal year, any unexpended dedicated credits described in
4059 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
4060 Fund created in Section 73-10-24.

4061 [~~(6)~~] (7) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection

4062 (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in
4063 Subsection (1) for the fiscal year shall be deposited as follows:

4064 (a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)
4065 shall be deposited into the Transportation Investment Fund of 2005 created by Section
4066 72-2-124;

4067 (b) for fiscal year 2017-18 only:

4068 (i) 80% of the revenue described in this Subsection (6) shall be deposited into the
4069 Transportation Investment Fund of 2005 created by Section 72-2-124; and

4070 (ii) 20% of the revenue described in this Subsection (6) shall be deposited into the
4071 Water Infrastructure Restricted Account created by Section 73-10g-103;

4072 (c) for fiscal year 2018-19 only:

4073 (i) 60% of the revenue described in this Subsection (6) shall be deposited into the
4074 Transportation Investment Fund of 2005 created by Section 72-2-124; and

4075 (ii) 40% of the revenue described in this Subsection (6) shall be deposited into the
4076 Water Infrastructure Restricted Account created by Section 73-10g-103;

4077 (d) for fiscal year 2019-20 only:

4078 (i) 40% of the revenue described in this Subsection (6) shall be deposited into the
4079 Transportation Investment Fund of 2005 created by Section 72-2-124; and

4080 (ii) 60% of the revenue described in this Subsection (6) shall be deposited into the
4081 Water Infrastructure Restricted Account created by Section 73-10g-103;

4082 (e) for fiscal year 2020-21 only:

4083 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
4084 Transportation Investment Fund of 2005 created by Section 72-2-124; and

4085 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the
4086 Water Infrastructure Restricted Account created by Section 73-10g-103; and

4087 (f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described
4088 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account
4089 created by Section 73-10g-103.

4090 [~~(7)~~] (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
4091 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
4092 [~~2012~~] 2020, the Division of Finance shall deposit into the Transportation Investment Fund of

4093 2005 created by Section 72-2-124:

4094 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
4095 the ~~[revenues]~~ revenue collected from the following taxes, which represents a portion of the
4096 approximately 17% of sales and use tax ~~[revenues]~~ revenue generated annually by the sales and
4097 use tax on vehicles and vehicle-related products:

4098 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

4099 (B) the tax imposed by Subsection (2)(b)(i);

4100 (C) the tax imposed by Subsection (2)(c)(i); and

4101 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

4102 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
4103 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through
4104 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
4105 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

4106 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of
4107 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total
4108 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)
4109 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
4110 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
4111 (7)(a) equal to the product of:

4112 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the
4113 previous fiscal year; and

4114 (B) the total sales and use tax revenue generated by the taxes described in Subsections
4115 (7)(a)(i)(A) through (D) in the current fiscal year.

4116 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
4117 Subsection (7)(a) would exceed ~~[17%]~~ 15.2% of the ~~[revenues]~~ revenue collected from the
4118 sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year,
4119 the Division of Finance shall deposit ~~[17%]~~ 15.2% of the ~~[revenues]~~ revenue collected from the
4120 sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal year
4121 under Subsection (7)(a).

4122 (iii) In all subsequent fiscal years after a year in which ~~[17%]~~ 15.2% of the ~~[revenues]~~
4123 revenue collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through

4124 (D) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit
 4125 ~~[17%]~~ 15.2% of the ~~[revenues]~~ revenue collected from the sales and use taxes described in
 4126 Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

4127 ~~[(8)(a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited~~
 4128 ~~under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall~~
 4129 ~~deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into~~
 4130 ~~the Transportation Investment Fund of 2005 created by Section 72-2-124.]~~

4131 ~~[(b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under~~
 4132 ~~Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit~~
 4133 ~~\$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the~~
 4134 ~~Transportation Investment Fund of 2005 created by Section 72-2-124.]~~

4135 ~~[(c)(i) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under~~
 4136 ~~Subsections (6) and (7), and subject to Subsection (8)(c)(ii), for a fiscal year beginning on or~~
 4137 ~~after July 1, 2018, the commission shall annually deposit into the Transportation Investment~~
 4138 ~~Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a)~~
 4139 ~~in an amount equal to 3.68% of the revenues collected from the following taxes:]~~

4140 ~~[(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;]~~

4141 ~~[(B) the tax imposed by Subsection (2)(b)(i);]~~

4142 ~~[(C) the tax imposed by Subsection (2)(c)(i); and]~~

4143 ~~[(D) the tax imposed by Subsection (2)(d)(i)(A)(f).]~~

4144 ~~[(ii) For a fiscal year beginning on or after July 1, 2019, the commission shall annually~~
 4145 ~~reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i)~~
 4146 ~~by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year~~
 4147 ~~by the portion of the tax imposed on motor and special fuel that is sold, used, or received for~~
 4148 ~~sale or use in this state that exceeds 29.4 cents per gallon.]~~

4149 ~~[(iii)]~~ (9) The commission shall deposit annually ~~[deposit the amount described in~~
 4150 ~~Subsection (8)(c)(ii)]~~ an amount equal to 50% of the growth in the amount of revenue collected
 4151 in the current fiscal year from the tax imposed under Subsection (2)(c)(i) that exceeds the
 4152 amount collected from the tax imposed under Subsection (2)(c)(i) in the 2020-2021 fiscal year
 4153 into the Transit and Transportation Investment Fund created in Section 72-2-124.

4154 ~~[(9)]~~ (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal

4155 year 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
4156 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

4157 ~~[(10)]~~ (11) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection
4158 (10)(c), in addition to any amounts deposited under Subsections (6), (7), and (8), and for the
4159 2016-17 fiscal year only, the Division of Finance shall deposit into the Transportation
4160 Investment Fund of 2005 created by Section 72-2-124 the amount of tax revenue generated by
4161 a .05% tax rate on the transactions described in Subsection (1).

4162 (b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in
4163 addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance
4164 shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the
4165 amount of revenue described as follows:

4166 (i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%
4167 tax rate on the transactions described in Subsection (1);

4168 (ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05%
4169 tax rate on the transactions described in Subsection (1);

4170 (iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%
4171 tax rate on the transactions described in Subsection (1);

4172 (iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a
4173 .05% tax rate on the transactions described in Subsection (1); and

4174 (v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%
4175 tax rate on the transactions described in Subsection (1).

4176 (c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not
4177 deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts
4178 paid or charged for food and food ingredients, except for tax revenue generated by a bundled
4179 transaction attributable to food and food ingredients and tangible personal property other than
4180 food and food ingredients described in Subsection (2)(d).

4181 ~~[(11)]~~ (12) Notwithstanding Subsection (3)(a), beginning the second fiscal year after
4182 the fiscal year during which the Division of Finance receives notice under Section 63N-2-510
4183 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division
4184 of Finance shall, for two consecutive fiscal years, ~~[annually]~~ deposit annually \$1,900,000 of the
4185 revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation

4186 Fund, created in Section 63N-2-512.

4187 ~~[(12)(a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the~~
 4188 ~~Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed~~
 4189 ~~under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section~~
 4190 ~~35A-8-308.]~~

4191 ~~[(b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division~~
 4192 ~~of Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under~~
 4193 ~~Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.]~~

4194 ~~[(13)]~~ (13) (a) The rate specified in this subsection is 0.15%.

4195 (b) Notwithstanding Subsection (3)(a), the Division of Finance shall ~~[(i) on or before~~
 4196 ~~September 30, 2019, transfer the amount of revenue collected from the rate described in~~
 4197 ~~Subsection (13)(a) beginning on April 1, 2019, and ending on June 30, 2019, on the~~
 4198 ~~transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the~~
 4199 ~~Medicaid Expansion Fund created in Section 26-36b-208; and (ii)]~~ for a fiscal year beginning
 4200 on or after July 1, 2019, ~~[annually]~~ transfer annually the amount of revenue collected from the
 4201 rate described in Subsection ~~[(13)]~~ (12)(a) on the transactions that are subject to the sales and
 4202 use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section
 4203 26-36b-208.

4204 Section 42. Section **59-12-104** is amended to read:

4205 **59-12-104. Exemptions.**

4206 Exemptions from the taxes imposed by this chapter, other than a tax imposed under
 4207 Section 59-12-130, are as follows:

4208 (1) (a) sales of aviation fuel~~[, motor fuel, and special]~~ or diesel fuel subject to a ~~[Utah]~~
 4209 state excise tax under Chapter 13, Motor and Special Fuel Tax Act; or

4210 (b) sales of motor fuel or special fuel that are subject to Section 59-12-130;

4211 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
 4212 subdivisions; however, this exemption does not apply to sales of:

4213 (a) construction materials except:

4214 (i) construction materials purchased by or on behalf of institutions of the public
 4215 education system as defined in Utah Constitution, Article X, Section 2, provided the
 4216 construction materials are clearly identified and segregated and installed or converted to real

4217 property which is owned by institutions of the public education system; and
4218 (ii) construction materials purchased by the state, its institutions, or its political
4219 subdivisions which are installed or converted to real property by employees of the state, its
4220 institutions, or its political subdivisions; or
4221 (b) tangible personal property in connection with the construction, operation,
4222 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
4223 providing additional project capacity, as defined in Section 11-13-103;
4224 ~~[(3)(a) sales of an item described in Subsection (3)(b) from a vending machine if:]~~
4225 ~~[(i) the proceeds of each sale do not exceed \$1; and]~~
4226 ~~[(ii) the seller or operator of the vending machine reports an amount equal to 150% of~~
4227 ~~the cost of the item described in Subsection (3)(b) as goods consumed; and]~~
4228 ~~[(b) Subsection (3)(a) applies to:]~~
4229 ~~[(i) food and food ingredients; or]~~
4230 ~~[(ii) prepared food;]~~
4231 ~~[(4)]~~ (3) (a) sales of the following to a commercial airline carrier for in-flight
4232 consumption:
4233 (i) alcoholic beverages;
4234 (ii) food and food ingredients; or
4235 (iii) prepared food;
4236 (b) sales of tangible personal property or a product transferred electronically:
4237 (i) to a passenger;
4238 (ii) by a commercial airline carrier; and
4239 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
4240 (c) services related to Subsection ~~[(4)]~~ (3)(a) or (b);
4241 ~~[(5)(a)(i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts~~
4242 ~~and equipment:]~~
4243 ~~[(A)(I) by an establishment described in NAICS Code 336411 or 336412 of the 2002~~
4244 ~~North American Industry Classification System of the federal Executive Office of the~~
4245 ~~President, Office of Management and Budget, and]~~
4246 ~~[(H) for:]~~
4247 ~~[(Aa) installation in an aircraft, including services relating to the installation of parts or~~

4248 equipment in the aircraft;]
 4249 ~~[(Bb) renovation of an aircraft; or]~~
 4250 ~~[(Cc) repair of an aircraft; or]~~
 4251 ~~[(B) for installation in an aircraft operated by a common carrier in interstate or foreign~~
 4252 ~~commerce; or]~~
 4253 ~~[(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an~~
 4254 ~~aircraft operated by a common carrier in interstate or foreign commerce; and]~~
 4255 ~~[(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund;~~
 4256 ~~a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a~~
 4257 ~~refund;]~~
 4258 ~~[(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;]~~
 4259 ~~[(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;]~~
 4260 ~~[(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for~~
 4261 ~~the sale prior to filing for the refund;]~~
 4262 ~~[(iv) for sales and use taxes paid under this chapter on the sale;]~~
 4263 ~~[(v) in accordance with Section 59-1-1410; and]~~
 4264 ~~[(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410;~~
 4265 ~~if the person files for the refund on or before September 30, 2011;]~~
 4266 (4) sales of parts and equipment for installation in an aircraft operated by a common
 4267 carrier in interstate or foreign commerce;
 4268 ~~[(6)]~~ (5) sales of commercials, motion picture films, prerecorded audio program tapes
 4269 or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
 4270 exhibitor, distributor, or commercial television or radio broadcaster;
 4271 ~~[(7)(a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of~~
 4272 ~~cleaning or washing of tangible personal property if the cleaning or washing of the tangible~~
 4273 ~~personal property is not assisted cleaning or washing of tangible personal property;]~~
 4274 ~~[(b) if a seller that sells at the same business location assisted cleaning or washing of~~
 4275 ~~tangible personal property and cleaning or washing of tangible personal property that is not~~
 4276 ~~assisted cleaning or washing of tangible personal property, the exemption described in~~
 4277 ~~Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning~~
 4278 ~~or washing of the tangible personal property; and]~~

4279 ~~[(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,~~
4280 ~~Utah Administrative Rulemaking Act, the commission may make rules:]~~
4281 ~~[(i) governing the circumstances under which sales are at the same business location;~~
4282 ~~and]~~
4283 ~~[(ii) establishing the procedures and requirements for a seller to separately account for~~
4284 ~~sales of assisted cleaning or washing of tangible personal property;]~~
4285 ~~[(8)]~~ (6) sales made to or by religious or charitable institutions in the conduct of their
4286 regular religious or charitable functions and activities, if the requirements of Section
4287 59-12-104.1 are fulfilled;
4288 ~~[(9)]~~ (7) sales of a vehicle of a type required to be registered under the motor vehicle
4289 laws of this state if the vehicle is:
4290 (a) not registered in this state; and
4291 (b) (i) not used in this state; or
4292 (ii) used in this state:
4293 (A) if the vehicle is not used to conduct business, for a time period that does not
4294 exceed the longer of:
4295 (I) 30 days in any calendar year; or
4296 (II) the time period necessary to transport the vehicle to the borders of this state; or
4297 (B) if the vehicle is used to conduct business, for the time period necessary to transport
4298 the vehicle to the borders of this state;
4299 ~~[(10)(a)]~~ (8) amounts paid for ~~[an item described in Subsection (10)(b) if]:~~
4300 (a) feminine hygiene products; or
4301 (b) a drug, syringe, or stoma supply if:
4302 (i) the item is intended for human use; and
4303 (ii) (A) a prescription was issued for the item; or
4304 (B) the item was purchased by a hospital or other medical facility; ~~[and]~~
4305 ~~[(b) (i) Subsection (10)(a) applies to:]~~
4306 ~~[(A) a drug;]~~
4307 ~~[(B) a syringe; or]~~
4308 ~~[(C) a stoma supply; and]~~
4309 ~~[(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~

4310 ~~the commission may by rule define the terms:]~~
 4311 ~~[(A) "syringe"; or]~~
 4312 ~~[(B) "stoma supply";]~~
 4313 ~~[(11)]~~ (9) purchases or leases exempt under Section 19-12-201;
 4314 ~~[(12)]~~ (10) (a) sales of an item described in Subsection ~~[(12)]~~ (10)(c) served by:
 4315 (i) the following if the item described in Subsection ~~[(12)]~~ (10)(c) is not available to
 4316 the general public:
 4317 (A) a church; or
 4318 (B) a charitable institution; or
 4319 (ii) an institution of higher education if:
 4320 (A) the item described in Subsection ~~[(12)]~~ (10)(c) is not available to the general
 4321 public; or
 4322 (B) the item described in Subsection ~~[(12)]~~ (10)(c) is prepaid as part of a student meal
 4323 plan offered by the institution of higher education; or
 4324 (b) sales of an item described in Subsection ~~[(12)]~~ (10)(c) provided for a patient by:
 4325 (i) a medical facility; or
 4326 (ii) a nursing facility; and
 4327 (c) Subsections ~~[(12)]~~ (10)(a) and (b) apply to:
 4328 (i) food and food ingredients;
 4329 (ii) prepared food; or
 4330 (iii) alcoholic beverages;
 4331 ~~[(13)]~~ (11) (a) except as provided in Subsection ~~[(13)]~~ (11)(b), the sale of tangible
 4332 personal property or a product transferred electronically by a person:
 4333 (i) regardless of the number of transactions involving the sale of that tangible personal
 4334 property or product transferred electronically by that person; and
 4335 (ii) not regularly engaged in the business of selling that type of tangible personal
 4336 property or product transferred electronically;
 4337 (b) this Subsection ~~[(13)]~~ (11) does not apply if:
 4338 (i) the sale is one of a series of sales of a character to indicate that the person is
 4339 regularly engaged in the business of selling that type of tangible personal property or product
 4340 transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection ~~[(25)]~~ (22); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

~~[(14)]~~ (12) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by:

(a) a manufacturing facility that:

(i) is located in the state; and

(ii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials:

(A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

4372 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
4373 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
4374 Administrative Rulemaking Act;

4375 (b) an establishment, as the commission defines that term in accordance with Title
4376 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

4377 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
4378 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
4379 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
4380 2002 North American Industry Classification System of the federal Executive Office of the
4381 President, Office of Management and Budget;

4382 (ii) is located in the state; and

4383 (iii) uses or consumes the machinery, equipment, normal operating repair or
4384 replacement parts, or materials in:

4385 (A) the production process to produce an item sold as tangible personal property, as the
4386 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
4387 Administrative Rulemaking Act;

4388 (B) research and development, as the commission may define that phrase in accordance
4389 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

4390 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
4391 produced from mining;

4392 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
4393 mining; or

4394 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

4395 (c) an establishment, as the commission defines that term in accordance with Title 63G,
4396 Chapter 3, Utah Administrative Rulemaking Act, that:

4397 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
4398 American Industry Classification System of the federal Executive Office of the President,
4399 Office of Management and Budget;

4400 (ii) is located in the state; and

4401 (iii) uses or consumes the machinery, equipment, normal operating repair or
4402 replacement parts, or materials in the operation of the web search portal;

4403 ~~[(15)]~~ (13) (a) sales of the following if the requirements of Subsection ~~[(15)]~~ (13)(b)

4404 are met:

4405 (i) tooling;

4406 (ii) special tooling;

4407 (iii) support equipment;

4408 (iv) special test equipment; or

4409 (v) parts used in the repairs or renovations of tooling or equipment described in

4410 Subsections ~~[(15)]~~ (13)(a)(i) through (iv); and

4411 (b) sales of tooling, equipment, or parts described in Subsection ~~[(15)]~~ (13)(a) are

4412 exempt if:

4413 (i) the tooling, equipment, or parts are used or consumed exclusively in the

4414 performance of any aerospace or electronics industry contract with the United States

4415 government or any subcontract under that contract; and

4416 (ii) under the terms of the contract or subcontract described in Subsection ~~[(15)]~~

4417 (13)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as

4418 evidenced by:

4419 (A) a government identification tag placed on the tooling, equipment, or parts; or

4420 (B) listing on a government-approved property record if placing a government

4421 identification tag on the tooling, equipment, or parts is impractical;

4422 ~~[(16) sales of newspapers or newspaper subscriptions;]~~

4423 ~~[(17)]~~ (14) (a) except as provided in Subsection ~~[(17)]~~ (14)(b), tangible personal

4424 property or a product transferred electronically traded in as full or part payment of the purchase

4425 price, except that for purposes of calculating sales or use tax upon vehicles not sold by a

4426 vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

4427 (i) the bill of sale or other written evidence of value of the vehicle being sold and the

4428 vehicle being traded in; or

4429 (ii) in the absence of a bill of sale or other written evidence of value, the then existing

4430 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the

4431 commission; and

4432 (b) Subsection ~~[(17)]~~ (14)(a) does not apply to the following items of tangible personal

4433 property or products transferred electronically traded in as full or part payment of the purchase

4434 price:

4435 (i) money;

4436 (ii) electricity;

4437 (iii) water;

4438 (iv) gas; or

4439 (v) steam;

4440 ~~[(18)]~~ (15) (a) (i) except as provided in Subsection ~~[(18)]~~ (15)(b), sales of tangible

4441 personal property or a product transferred electronically used or consumed primarily and

4442 directly in farming operations, regardless of whether the tangible personal property or product

4443 transferred electronically:

4444 (A) becomes part of real estate; or

4445 (B) is installed by a~~[:]~~ farmer, contractor, or subcontractor; or

4446 ~~[(f) farmer;]~~

4447 ~~[(H) contractor; or]~~

4448 ~~[(HH) subcontractor; or]~~

4449 (ii) sales of parts used in the repairs or renovations of tangible personal property or a

4450 product transferred electronically if the tangible personal property or product transferred

4451 electronically is exempt under Subsection ~~[(18)]~~ (15)(a)(i); and

4452 (b) amounts paid or charged for the following are subject to the taxes imposed by this

4453 chapter:

4454 (i) (A) subject to Subsection ~~[(18)]~~ (15)(b)(i)(B), machinery, equipment, materials, or

4455 supplies if used in a manner that is incidental to farming; and

4456 (B) tangible personal property that is considered to be used in a manner that is

4457 incidental to farming includes:

4458 (I) hand tools; or

4459 (II) maintenance and janitorial equipment and supplies;

4460 (ii) (A) subject to Subsection ~~[(18)]~~ (15)(b)(ii)(B), tangible personal property or a

4461 product transferred electronically if the tangible personal property or product transferred

4462 electronically is used in an activity other than farming; and

4463 (B) tangible personal property or a product transferred electronically that is considered

4464 to be used in an activity other than farming includes:

4465 (I) office equipment and supplies; or
4466 (II) equipment and supplies used in:
4467 (Aa) the sale or distribution of farm products;
4468 (Bb) research; or
4469 (Cc) transportation; or
4470 (iii) a vehicle required to be registered by the laws of this state during the period
4471 ending two years after the date of the vehicle's purchase;
4472 ~~[(19)]~~ (16) sales of hay;
4473 ~~[(20)]~~ (17) exclusive sale during the harvest season of seasonal crops, seedling plants,
4474 or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
4475 garden, farm, or other agricultural produce is sold by:
4476 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
4477 agricultural produce;
4478 (b) an employee of the producer described in Subsection ~~[(20)]~~ (17)(a); or
4479 (c) a member of the immediate family of the producer described in Subsection ~~[(20)]~~
4480 (17)(a);
4481 ~~[(21)]~~ (18) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is
4482 issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
4483 ~~[(22)]~~ (19) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
4484 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
4485 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
4486 manufacturer, processor, wholesaler, or retailer;
4487 ~~[(23)]~~ (20) a product stored in the state for resale;
4488 ~~[(24)]~~ (21) (a) purchases of a product if:
4489 (i) the product is:
4490 (A) purchased outside of this state;
4491 (B) brought into this state:
4492 (I) at any time after the purchase described in Subsection ~~[(24)]~~ (21)(a)(i)(A); and
4493 (II) by a nonresident person who is not living or working in this state at the time of the
4494 purchase;
4495 (C) used for the personal use or enjoyment of the nonresident person described in

4496 Subsection [~~(24)~~] (21)(a)(i)(B)(II) while that nonresident person is within the state; and
 4497 (D) not used in conducting business in this state; and
 4498 (ii) for:
 4499 (A) a product other than a boat described in Subsection [~~(24)~~] (21)(a)(ii)(B), the first
 4500 use of the product for a purpose for which the product is designed occurs outside of this state;
 4501 (B) a boat, the boat is registered outside of this state; or
 4502 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
 4503 outside of this state;
 4504 (b) the exemption provided for in Subsection [~~(24)~~] (21)(a) does not apply to:
 4505 (i) a lease or rental of a product; or
 4506 (ii) a sale of a vehicle exempt under Subsection [~~(33)~~] (30); and
 4507 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
 4508 purposes of Subsection [~~(24)~~] (21)(a), the commission may by rule define what constitutes the
 4509 following:
 4510 (i) conducting business in this state if that phrase has the same meaning in this
 4511 Subsection [~~(24)~~] (21) as in Subsection [~~(63)~~] (54);
 4512 (ii) the first use of a product if that phrase has the same meaning in this Subsection
 4513 [~~(24)~~] (21) as in Subsection [~~(63)~~] (54); or
 4514 (iii) a purpose for which a product is designed if that phrase has the same meaning in
 4515 this Subsection [~~(24)~~] (21) as in Subsection [~~(63)~~] (54);
 4516 [~~(25)~~] (22) a product purchased for resale in the regular course of business, either in its
 4517 original form or as an ingredient or component part of a manufactured or compounded product;
 4518 [~~(26)~~] (23) a product upon which a sales or use tax was paid to some other state, or one
 4519 of its subdivisions, except that the state shall be paid any difference between the tax paid and
 4520 the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is
 4521 allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and
 4522 Use Tax Act;
 4523 [~~(27)~~] (24) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d)
 4524 to a person for use in compounding a service taxable under the subsections;
 4525 [~~(28)~~] (25) purchases made in accordance with the special supplemental nutrition
 4526 program for women, infants, and children established in 42 U.S.C. Sec. 1786;

4527 ~~[(29)]~~ (26) sales or leases of rolls, rollers, refractory brick, electric motors, or other
4528 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
4529 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
4530 the President, Office of Management and Budget;

4531 ~~[(30)]~~ (27) sales of a boat of a type required to be registered under Title 73, Chapter 18,
4532 State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard
4533 motor is:

4534 (a) not registered in this state; and

4535 (b) (i) not used in this state; or

4536 (ii) used in this state:

4537 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
4538 time period that does not exceed the longer of:

4539 (I) 30 days in any calendar year; or

4540 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
4541 the borders of this state; or

4542 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
4543 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
4544 state;

4545 ~~[(31)]~~ (28) sales of aircraft manufactured in Utah;

4546 ~~[(32)]~~ (29) amounts paid for the purchase of telecommunications service for purposes
4547 of providing telecommunications service;

4548 ~~[(33)]~~ (30) sales, leases, or uses of the following:

4549 (a) a vehicle by an authorized carrier; or

4550 (b) tangible personal property that is installed on a vehicle:

4551 (i) sold or leased to or used by an authorized carrier; and

4552 (ii) before the vehicle is placed in service for the first time;

4553 ~~[(34)]~~ (31) (a) 45% of the sales price of any new manufactured home; and

4554 (b) 100% of the sales price of any used manufactured home;

4555 ~~[(35)]~~ (32) sales relating to schools and fundraising sales;

4556 ~~[(36)]~~ (33) sales or rentals of durable medical equipment if:

4557 (a) a person presents a prescription for the durable medical equipment; and

4558 (b) the durable medical equipment is used for home use only;
4559 ~~[(37)(a) sales to a ski resort of electricity to operate a passenger ropeway as defined in~~
4560 ~~Section 72-11-102; and]~~
4561 ~~[(b) the commission shall by rule determine the method for calculating sales exempt~~
4562 ~~under Subsection (37)(a) that are not separately metered and accounted for in utility billings;]~~
4563 ~~[(38)]~~ (34) sales to a ski resort of:
4564 (a) snowmaking equipment;
4565 (b) ski slope grooming equipment;
4566 (c) passenger ropeways as defined in Section 72-11-102; or
4567 (d) parts used in the repairs or renovations of equipment or passenger ropeways
4568 described in Subsections ~~[(38)]~~ (34)(a) through (c);
4569 ~~[(39)]~~ (35) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for
4570 industrial use;
4571 ~~[(40)(a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for~~
4572 ~~amusement, entertainment, or recreation an unassisted amusement device as defined in Section~~
4573 ~~59-12-102;]~~
4574 ~~[(b) if a seller that sells or rents at the same business location the right to use or operate~~
4575 ~~for amusement, entertainment, or recreation one or more unassisted amusement devices and~~
4576 ~~one or more assisted amusement devices, the exemption described in Subsection (40)(a)~~
4577 ~~applies if the seller separately accounts for the sales or rentals of the right to use or operate for~~
4578 ~~amusement, entertainment, or recreation for the assisted amusement devices; and]~~
4579 ~~[(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,~~
4580 ~~Utah Administrative Rulemaking Act, the commission may make rules:]~~
4581 ~~[(i) governing the circumstances under which sales are at the same business location;~~
4582 ~~and]~~
4583 ~~[(ii) establishing the procedures and requirements for a seller to separately account for~~
4584 ~~the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for~~
4585 ~~assisted amusement devices;]~~
4586 ~~[(41)]~~ (36) (a) sales of photocopies by:
4587 (i) a governmental entity; or
4588 (ii) an entity within the state system of public education, including:

4589 (A) a school; or
4590 (B) the State Board of Education; or
4591 (b) sales of publications by a governmental entity;
4592 ~~[(42) amounts paid for admission to an athletic event at an institution of higher~~
4593 ~~education that is subject to the provisions of Title IX of the Education Amendments of 1972,~~
4594 ~~20 U.S.C. Sec. 1681 et seq.;~~
4595 ~~[(43)]~~ (37) (a) sales made to or by:
4596 (i) an area agency on aging; or
4597 (ii) a senior citizen center owned by a county, city, or town; or
4598 (b) sales made by a senior citizen center that contracts with an area agency on aging;
4599 ~~[(44)]~~ (38) sales or leases of semiconductor fabricating, processing, research, or
4600 development materials regardless of whether the semiconductor fabricating, processing,
4601 research, or development materials:
4602 (a) actually come into contact with a semiconductor; or
4603 (b) ultimately become incorporated into real property;
4604 ~~[(45)]~~ (39) an amount paid by or charged to a purchaser for accommodations and
4605 services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under
4606 Section 59-12-104.2;
4607 ~~[(46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary~~
4608 ~~sports event registration certificate in accordance with Section 41-3-306 for the event period~~
4609 ~~specified on the temporary sports event registration certificate;]~~
4610 ~~[(47)(a) sales or uses of electricity, if the sales or uses are made under a retail tariff~~
4611 ~~adopted by the Public Service Commission only for purchase of electricity produced from a~~
4612 ~~new alternative energy source built after January 1, 2016, as designated in the tariff by the~~
4613 ~~Public Service Commission; and]~~
4614 ~~[(b) for a residential use customer only, the exemption under Subsection (47)(a) applies~~
4615 ~~only to the portion of the tariff rate a customer pays under the tariff described in Subsection~~
4616 ~~(47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the~~
4617 ~~customer would have paid absent the tariff;]~~
4618 ~~[(48)]~~ (40) sales or rentals of mobility enhancing equipment if a person presents a
4619 prescription for the mobility enhancing equipment;

4620 ~~[(49)]~~ (41) sales of water in a:

4621 (a) pipe;

4622 (b) conduit;

4623 (c) ditch; or

4624 (d) reservoir;

4625 ~~[(50)]~~ (42) sales of currency or coins that constitute legal tender of a state, the United

4626 States, or a foreign nation;

4627 ~~[(51)]~~ (43) (a) sales of an item described in Subsection ~~[(51)]~~ (43)(b) if the item:

4628 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and

4629 (ii) has a gold, silver, or platinum content of 50% or more; and

4630 (b) Subsection ~~[(51)]~~ (43)(a) applies to a gold, silver, or platinum:

4631 (i) ingot;

4632 (ii) bar;

4633 (iii) medallion; or

4634 (iv) decorative coin;

4635 ~~[(52)]~~ (44) amounts paid on a sale-leaseback transaction;

4636 ~~[(53)]~~ (45) sales of a prosthetic device:

4637 (a) for use on or in a human; and

4638 (b) (i) for which a prescription is required; or

4639 (ii) if the prosthetic device is purchased by a hospital or other medical facility;

4640 ~~[(54)]~~ (46) (a) except as provided in Subsection ~~[(54)]~~ (46)(b), purchases, leases, or

4641 rentals of machinery or equipment by an establishment described in Subsection ~~[(54)]~~ (46)(c) if

4642 the machinery or equipment is primarily used in the production or postproduction of the

4643 following media for commercial distribution:

4644 (i) a motion picture;

4645 (ii) a television program;

4646 (iii) a movie made for television;

4647 (iv) a music video;

4648 (v) a commercial;

4649 (vi) a documentary; or

4650 (vii) a medium similar to Subsections ~~[(54)]~~ (46)(a)(i) through (vi) as determined by

4651 the commission by administrative rule made in accordance with Subsection [~~(54)~~] (46)(d); or
4652 (b) purchases, leases, or rentals of machinery or equipment by an establishment
4653 described in Subsection [~~(54)~~] (46)(c) that is used for the production or postproduction of the
4654 following are subject to the taxes imposed by this chapter:

- 4655 (i) a live musical performance;
- 4656 (ii) a live news program; or
- 4657 (iii) a live sporting event;

4658 (c) the following establishments listed in the 1997 North American Industry
4659 Classification System of the federal Executive Office of the President, Office of Management
4660 and Budget, apply to Subsections [~~(54)~~] (46)(a) and (b):

- 4661 (i) NAICS Code 512110; or
- 4662 (ii) NAICS Code 51219; and
- 4663 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4664 commission may by rule:

- 4665 (i) prescribe what constitutes a medium similar to Subsections [~~(54)~~] (46)(a)(i) through
4666 (vi); or
- 4667 (ii) define:
 - 4668 (A) "commercial distribution";
 - 4669 (B) "live musical performance";
 - 4670 (C) "live news program"; or
 - 4671 (D) "live sporting event";

4672 [~~(55)~~] (47) (a) leases of seven or more years or purchases made on or after July 1,
4673 2004, but on or before June 30, 2027, of tangible personal property that:

- 4674 (i) is leased or purchased for or by a facility that:
 - 4675 (A) is an alternative energy electricity production facility;
 - 4676 (B) is located in the state; and
 - 4677 (C) (I) becomes operational on or after July 1, 2004; or
 - 4678 (II) has its generation capacity increased by one or more megawatts on or after July 1,
4679 2004, as a result of the use of the tangible personal property;
- 4680 (ii) has an economic life of five or more years; and
- 4681 (iii) is used to make the facility or the increase in capacity of the facility described in

4682 Subsection [~~(55)~~] (47)(a)(i) operational up to the point of interconnection with an existing
4683 transmission grid including:

- 4684 (A) a wind turbine;
- 4685 (B) generating equipment;
- 4686 (C) a control and monitoring system;
- 4687 (D) a power line;
- 4688 (E) substation equipment;
- 4689 (F) lighting;
- 4690 (G) fencing;
- 4691 (H) pipes; or
- 4692 (I) other equipment used for locating a power line or pole; and

4693 (b) this Subsection [~~(55)~~] (47) does not apply to:

4694 (i) tangible personal property used in construction of:

- 4695 (A) a new alternative energy electricity production facility; or
- 4696 (B) the increase in the capacity of an alternative energy electricity production facility;
- 4697 (ii) contracted services required for construction and routine maintenance activities;

4698 and

4699 (iii) unless the tangible personal property is used or acquired for an increase in capacity
4700 of the facility described in Subsection [~~(55)~~] (47)(a)(i)(C)(II), tangible personal property used
4701 or acquired after:

4702 (A) the alternative energy electricity production facility described in Subsection [~~(55)~~]
4703 (47)(a)(i) is operational as described in Subsection [~~(55)~~] (47)(a)(iii); or

4704 (B) the increased capacity described in Subsection [~~(55)~~] (47)(a)(i) is operational as
4705 described in Subsection [~~(55)~~] (47)(a)(iii);

4706 [~~(56)~~] (48) (a) leases of seven or more years or purchases made on or after July 1,
4707 2004, but on or before June 30, 2027, of tangible personal property that:

4708 (i) is leased or purchased for or by a facility that:

- 4709 (A) is a waste energy production facility;
- 4710 (B) is located in the state; and

4711 (C) (I) becomes operational on or after July 1, 2004; or

4712 (II) has its generation capacity increased by one or more megawatts on or after July 1,

4713 2004, as a result of the use of the tangible personal property;
4714 (ii) has an economic life of five or more years; and
4715 (iii) is used to make the facility or the increase in capacity of the facility described in
4716 Subsection ~~[(56)]~~ (48)(a)(i) operational up to the point of interconnection with an existing
4717 transmission grid including:
4718 (A) generating equipment;
4719 (B) a control and monitoring system;
4720 (C) a power line;
4721 (D) substation equipment;
4722 (E) lighting;
4723 (F) fencing;
4724 (G) pipes; or
4725 (H) other equipment used for locating a power line or pole; and
4726 (b) this Subsection ~~[(56)]~~ (48) does not apply to:
4727 (i) tangible personal property used in construction of:
4728 (A) a new waste energy facility; or
4729 (B) the increase in the capacity of a waste energy facility;
4730 (ii) contracted services required for construction and routine maintenance activities;
4731 and
4732 (iii) unless the tangible personal property is used or acquired for an increase in capacity
4733 described in Subsection ~~[(56)]~~ (48)(a)(i)(C)(II), tangible personal property used or acquired
4734 after:
4735 (A) the waste energy facility described in Subsection ~~[(56)]~~ (48)(a)(i) is operational as
4736 described in Subsection ~~[(56)]~~ (48)(a)(iii); or
4737 (B) the increased capacity described in Subsection ~~[(56)]~~ (48)(a)(i) is operational as
4738 described in Subsection ~~[(56)]~~ (48)(a)(iii);
4739 ~~[(57)]~~ (49) (a) leases of five or more years or purchases made on or after July 1, 2004,
4740 but on or before June 30, 2027, of tangible personal property that:
4741 (i) is leased or purchased for or by a facility that:
4742 (A) is located in the state;
4743 (B) produces fuel from alternative energy, including:

4744 (I) methanol; or
 4745 (II) ethanol; and
 4746 (C) (I) becomes operational on or after July 1, 2004; or
 4747 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
 4748 a result of the installation of the tangible personal property;
 4749 (ii) has an economic life of five or more years; and
 4750 (iii) is installed on the facility described in Subsection ~~[(57)]~~ (49)(a)(i);
 4751 (b) this Subsection ~~[(57)]~~ (49) does not apply to:
 4752 (i) tangible personal property used in construction of:
 4753 (A) a new facility described in Subsection ~~[(57)]~~ (49)(a)(i); or
 4754 (B) the increase in capacity of the facility described in Subsection ~~[(57)]~~ (49)(a)(i); or
 4755 (ii) contracted services required for construction and routine maintenance activities;
 4756 and
 4757 (iii) unless the tangible personal property is used or acquired for an increase in capacity
 4758 described in Subsection ~~[(57)]~~ (49)(a)(i)(C)(II), tangible personal property used or acquired
 4759 after:
 4760 (A) the facility described in Subsection ~~[(57)]~~ (49)(a)(i) is operational; or
 4761 (B) the increased capacity described in Subsection ~~[(57)]~~ (49)(a)(i) is operational;
 4762 ~~[(58)]~~ (50) (a) subject to Subsection ~~[(58)(b) or (c)]~~ (50)(b), sales of tangible personal
 4763 property or a product transferred electronically to a person within this state if that tangible
 4764 personal property or product transferred electronically is subsequently shipped outside the state
 4765 and incorporated pursuant to contract into and becomes a part of real property located outside
 4766 of this state; and
 4767 (b) the exemption under Subsection ~~[(58)]~~ (50)(a) is not allowed to the extent that the
 4768 other state or political entity to which the tangible personal property is shipped imposes a sales,
 4769 use, gross receipts, or other similar transaction excise tax on the transaction against which the
 4770 other state or political entity allows a credit for sales and use taxes imposed by this chapter;
 4771 [and]
 4772 ~~[(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~
 4773 ~~a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a~~
 4774 ~~refund.]~~

4775 ~~[(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;]~~
4776 ~~[(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on~~
4777 ~~which the sale is made;]~~
4778 ~~[(iii) if the person did not claim the exemption allowed by this Subsection (58) for the~~
4779 ~~sale prior to filing for the refund;]~~
4780 ~~[(iv) for sales and use taxes paid under this chapter on the sale;]~~
4781 ~~[(v) in accordance with Section 59-1-1410; and]~~
4782 ~~[(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410,~~
4783 ~~if the person files for the refund on or before June 30, 2011;]~~
4784 ~~[(59) purchases:]~~
4785 ~~[(a) of one or more of the following items in printed or electronic format:]~~
4786 ~~[(i) a list containing information that includes one or more:]~~
4787 ~~[(A) names; or]~~
4788 ~~[(B) addresses; or]~~
4789 ~~[(ii) a database containing information that includes one or more:]~~
4790 ~~[(A) names; or]~~
4791 ~~[(B) addresses; and]~~
4792 ~~[(b) used to send direct mail;]~~
4793 ~~[(60)]~~ (51) redemptions or repurchases of a product by a person if that product was:
4794 (a) delivered to a pawnbroker as part of a pawn transaction; and
4795 (b) redeemed or repurchased within the time period established in a written agreement
4796 between the person and the pawnbroker for redeeming or repurchasing the product;
4797 ~~[(61)]~~ (52) (a) purchases or leases of an item described in Subsection ~~[(61)]~~ (52)(b) if
4798 the item:
4799 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
4800 and
4801 (ii) has a useful economic life of one or more years; and
4802 (b) the following apply to Subsection ~~[(61)]~~ (52)(a):
4803 (i) telecommunications enabling or facilitating equipment, machinery, or software;
4804 (ii) telecommunications equipment, machinery, or software required for 911 service;
4805 (iii) telecommunications maintenance or repair equipment, machinery, or software;

4806 (iv) telecommunications switching or routing equipment, machinery, or software; or
4807 (v) telecommunications transmission equipment, machinery, or software;
4808 ~~[(62)]~~ (53) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of
4809 tangible personal property or a product transferred electronically that are used in the research
4810 and development of alternative energy technology; and
4811 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4812 commission may, for purposes of Subsection ~~[(62)]~~ (53)(a), make rules defining what
4813 constitutes purchases of tangible personal property or a product transferred electronically that
4814 are used in the research and development of alternative energy technology;
4815 ~~[(63)]~~ (54) (a) purchases of tangible personal property or a product transferred
4816 electronically if:
4817 (i) the tangible personal property or product transferred electronically is:
4818 (A) purchased outside of this state;
4819 (B) brought into this state at any time after the purchase described in Subsection ~~[(63)]~~
4820 (54)(a)(i)(A); and
4821 (C) used in conducting business in this state; and
4822 (ii) for:
4823 (A) tangible personal property or a product transferred electronically other than the
4824 tangible personal property described in Subsection ~~[(63)]~~ (54)(a)(ii)(B), the first use of the
4825 property for a purpose for which the property is designed occurs outside of this state; or
4826 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
4827 outside of this state;
4828 (b) the exemption provided for in Subsection ~~[(63)]~~ (54)(a) does not apply to:
4829 (i) a lease or rental of tangible personal property or a product transferred electronically;
4830 or
4831 (ii) a sale of a vehicle exempt under Subsection ~~[(33)]~~ (30); and
4832 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
4833 purposes of Subsection ~~[(63)]~~ (54)(a), the commission may by rule define what constitutes the
4834 following:
4835 (i) conducting business in this state if that phrase has the same meaning in this
4836 Subsection ~~[(63)]~~ (54) as in Subsection ~~[(24)]~~ (21);

4837 (ii) the first use of tangible personal property or a product transferred electronically if
4838 that phrase has the same meaning in this Subsection ~~[(63)]~~ (54) as in Subsection ~~[(24)]~~ (21); or
4839 (iii) a purpose for which tangible personal property or a product transferred
4840 electronically is designed if that phrase has the same meaning in this Subsection ~~[(63)]~~ (54) as
4841 in Subsection ~~[(24)]~~ (21);
4842 ~~[(64)]~~ (55) sales of disposable home medical equipment or supplies if:
4843 (a) a person presents a prescription for the disposable home medical equipment or
4844 supplies;
4845 (b) the disposable home medical equipment or supplies are used exclusively by the
4846 person to whom the prescription described in Subsection ~~[(64)]~~ (55)(a) is issued; and
4847 (c) the disposable home medical equipment and supplies are listed as eligible for
4848 payment under:
4849 (i) Title XVIII, federal Social Security Act; or
4850 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
4851 ~~[(65) sales:]~~
4852 ~~[(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit~~
4853 ~~District Act; or]~~
4854 ~~[(b) of tangible personal property to a subcontractor of a public transit district, if the~~
4855 ~~tangible personal property is:]~~
4856 ~~[(i) clearly identified; and]~~
4857 ~~[(ii) installed or converted to real property owned by the public transit district;]~~
4858 ~~[(66)]~~ (56) sales of construction materials:
4859 (a) purchased on or after July 1, 2010;
4860 (b) purchased by, on behalf of, or for the benefit of an international airport:
4861 (i) located within a county of the first class; and
4862 (ii) that has a United States customs office on its premises; and
4863 (c) if the construction materials are:
4864 (i) clearly identified;
4865 (ii) segregated; and
4866 (iii) installed or converted to real property:
4867 (A) owned or operated by the international airport described in Subsection ~~[(66)]~~

4868 (56)(b); and
4869 (B) located at the international airport described in Subsection ~~[(66)]~~ (56)(b);
4870 ~~[(67)]~~ (57) sales of construction materials:
4871 (a) purchased on or after July 1, 2008;
4872 (b) purchased by, on behalf of, or for the benefit of a new airport:
4873 (i) located within a county of the second class; and
4874 (ii) that is owned or operated by a city in which an airline as defined in Section
4875 59-2-102 is headquartered; and
4876 (c) if the construction materials are:
4877 (i) clearly identified;
4878 (ii) segregated; and
4879 (iii) installed or converted to real property:
4880 (A) owned or operated by the new airport described in Subsection ~~[(67)]~~ (57)(b);
4881 (B) located at the new airport described in Subsection ~~[(67)]~~ (57)(b); and
4882 (C) as part of the construction of the new airport described in Subsection ~~[(67)]~~
4883 (57)(b);
4884 ~~[(68) sales of fuel to a common carrier that is a railroad for use in a locomotive~~
4885 ~~engine;]~~
4886 ~~[(69)]~~ (58) purchases and sales described in Section 63H-4-111;
4887 ~~[(70)]~~ (59) (a) sales of tangible personal property to an aircraft maintenance, repair, and
4888 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
4889 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
4890 lists a state or country other than this state as the location of registry of the fixed wing turbine
4891 powered aircraft; or
4892 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
4893 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
4894 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
4895 lists a state or country other than this state as the location of registry of the fixed wing turbine
4896 powered aircraft;
4897 ~~[(71) subject to Section 59-12-104.4, sales of a textbook for a higher education~~
4898 ~~course;]~~

~~[(a) to a person admitted to an institution of higher education; and]~~
~~[(b) by a seller, other than a bookstore owned by an institution of higher education, if~~
~~51% or more of that seller's sales revenue for the previous calendar quarter are sales of a~~
~~textbook for a higher education course;]~~
~~[(72)] (60)~~ a license fee or tax a municipality imposes in accordance with Subsection
10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
level of municipal services;
~~[(73)] (61)~~ amounts paid or charged for construction materials used in the construction
of a new or expanding life science research and development facility in the state, if the
construction materials are:
(a) clearly identified;
(b) segregated; and
(c) installed or converted to real property;
~~[(74)] (62)~~ amounts paid or charged for:
(a) a purchase or lease of machinery and equipment that:
(i) are used in performing qualified research:
(A) as defined in Section 41(d), Internal Revenue Code; and
(B) in the state; and
(ii) have an economic life of three or more years; and
(b) normal operating repair or replacement parts:
(i) for the machinery and equipment described in Subsection ~~[(74)] (62)~~(a); and
(ii) that have an economic life of three or more years;
~~[(75)] (63)~~ a sale or lease of tangible personal property used in the preparation of
prepared food if:
(a) for a sale:
(i) the ownership of the seller and the ownership of the purchaser are identical; and
(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
tangible personal property prior to making the sale; or
(b) for a lease:
(i) the ownership of the lessor and the ownership of the lessee are identical; and
(ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible

4930 personal property prior to making the lease;

4931 ~~[(76)]~~ (64) (a) purchases of machinery or equipment if:

4932 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,

4933 Gambling, and Recreation Industries, of the 2012 North American Industry Classification

4934 System of the federal Executive Office of the President, Office of Management and Budget;

4935 (ii) the machinery or equipment:

4936 (A) has an economic life of three or more years; and

4937 (B) is used by one or more persons who pay admission or user fees described in

4938 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

4939 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

4940 (A) amounts paid or charged as admission or user fees described in Subsection

4941 59-12-103(1)(f); and

4942 (B) subject to taxation under this chapter; and

4943 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

4944 commission may make rules for verifying that 51% of a purchaser's sales revenue for the

4945 previous calendar quarter is:

4946 (i) amounts paid or charged as admission or user fees described in Subsection

4947 59-12-103(1)(f); and

4948 (ii) subject to taxation under this chapter;

4949 ~~[(77)]~~ (65) purchases of a short-term lodging consumable by a business that provides

4950 accommodations and services described in Subsection 59-12-103(1)(i);

4951 ~~[(78) amounts paid or charged to access a database:]~~

4952 ~~[(a) if the primary purpose for accessing the database is to view or retrieve information~~

4953 ~~from the database; and]~~

4954 ~~[(b) not including amounts paid or charged for a:]~~

4955 ~~[(i) digital audiowork;]~~

4956 ~~[(ii) digital audio-visual work; or]~~

4957 ~~[(iii) digital book;]~~

4958 ~~[(79)]~~ (66) amounts paid or charged for a purchase or lease made by an electronic

4959 financial payment service, of:

4960 (a) machinery and equipment that:

4961 (i) are used in the operation of the electronic financial payment service; and
4962 (ii) have an economic life of three or more years; and
4963 (b) normal operating repair or replacement parts that:
4964 (i) are used in the operation of the electronic financial payment service; and
4965 (ii) have an economic life of three or more years;
4966 ~~[(80)]~~ (67) ~~[beginning on April 1, 2013,]~~ sales of a fuel cell as defined in Section
4967 54-15-102;
4968 ~~[(81)]~~ (68) amounts paid or charged for a purchase or lease of tangible personal
4969 property or a product transferred electronically if the tangible personal property or product
4970 transferred electronically:
4971 (a) is stored, used, or consumed in the state; and
4972 (b) is temporarily brought into the state from another state:
4973 (i) during a disaster period as defined in Section 53-2a-1202;
4974 (ii) by an out-of-state business as defined in Section 53-2a-1202;
4975 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
4976 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
4977 ~~[(82)]~~ (69) sales of goods and services at a morale, welfare, and recreation facility, as
4978 defined in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
4979 Recreation Program;
4980 ~~[(83)]~~ (70) amounts paid or charged for a purchase or lease of molten magnesium;
4981 ~~[(84)]~~ (71) amounts paid or charged for a purchase or lease made by a qualifying
4982 ~~[enterprise]~~ data center or an operator of a qualifying data center of machinery, equipment, or
4983 normal operating repair or replacement parts, if the machinery, equipment, or normal operating
4984 repair or replacement parts:
4985 (a) are used in the operation of the ~~[establishment]~~ qualifying data center; and
4986 (b) have an economic life of one or more years;
4987 ~~[(85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a~~
4988 ~~vehicle that includes cleaning or washing of the interior of the vehicle;]~~
4989 ~~[(86)]~~ (72) amounts paid or charged for a purchase or lease of machinery, equipment,
4990 normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or
4991 supplies used or consumed:

4992 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
4993 in Section 63M-4-701 located in the state;

4994 (b) if the machinery, equipment, normal operating repair or replacement parts,
4995 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

4996 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
4997 added to gasoline or diesel fuel;

4998 (ii) research and development;

4999 (iii) transporting, storing, or managing raw materials, work in process, finished
5000 products, and waste materials produced from refining gasoline or diesel fuel, or adding
5001 blendstock to gasoline or diesel fuel;

5002 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
5003 refining; or

5004 (v) preventing, controlling, or reducing pollutants from refining; and

5005 (c) beginning on July 1, 2021, if the person has obtained a form certified by the Office
5006 of Energy Development under Subsection 63M-4-702(2);

5007 [~~(87)~~] (73) amounts paid to or charged by a proprietor for accommodations and
5008 services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA
5009 accommodations tax imposed under Section 63H-1-205;

5010 [~~(88)~~] (74) amounts paid or charged for a purchase or lease of machinery, equipment,
5011 normal operating repair or replacement parts, or materials, except for office equipment or
5012 office supplies, by an establishment, as the commission defines that term in accordance with
5013 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

5014 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North
5015 American Industry Classification System of the federal Executive Office of the President,
5016 Office of Management and Budget;

5017 (b) is located in this state; and

5018 (c) uses the machinery, equipment, normal operating repair or replacement parts, or
5019 materials in the operation of the establishment; ~~and~~

5020 [~~(89)~~] (75) amounts paid or charged for an item exempt under Section 59-12-104.10[~~7~~];

5021 and

5022 (76) if paid for through a machine that accepts only cash for payment and if the

5023 machine is the only method by which to pay:

5024 (a) sales of cleaning or washing of tangible personal property if the cleaning or
5025 washing of the tangible personal property is not assisted cleaning or washing of tangible
5026 personal property;

5027 (b) sales of food and food ingredients or prepared food from a vending machine if:

5028 (i) the proceeds of each sale do not exceed \$1; and

5029 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
5030 the cost of the food and food ingredients or prepared food as goods consumed; and

5031 (c) sales or rentals of the right to use or operate an unassisted amusement device for
5032 amusement, entertainment, or recreation.

5033 Section 43. Section **59-12-104.5** is amended to read:

5034 **59-12-104.5. Revenue and Taxation Interim Committee review of sales and use**
5035 **taxes.**

5036 The Revenue and Taxation Interim Committee shall:

5037 (1) review Subsection 59-12-104[(28)](25) before October 1 of the year after the year
5038 in which Congress permits a state to participate in the special supplemental nutrition program
5039 under 42 U.S.C. Sec. 1786 even if state or local sales taxes are collected within the state on
5040 purchases of food under that program; and

5041 (2) review Subsection 59-12-104[(21)](18) before October 1 of the year after the year
5042 in which Congress permits a state to participate in the SNAP as defined in Section 35A-1-102,
5043 even if state or local sales taxes are collected within the state on purchases of food under that
5044 program.

5045 Section 44. Section **59-12-130** is enacted to read:

5046 **59-12-130. Sales tax on motor fuel and special fuel.**

5047 (1) As used in this section:

5048 (a) "Diesel fuel" means the same as that term is defined in Section 59-13-102.

5049 (b) "Distributor" means the same as that term is defined in Section 59-13-102.

5050 (c) "Motor fuel" means the same as that term is defined in Section 59-13-102.

5051 (d) "Motor fuel or special fuel tax" means the taxes imposed under Chapter 13, Motor
5052 and Special Fuel Tax Act.

5053 (e) (i) Except as provided in Subsection (1)(e)(ii), "special fuel" means the same as that

5054 term is defined in Section 59-13-102.

5055 (ii) "Special fuel" does not include diesel fuel, propane, or electricity.

5056 (f) (i) "Supplier" means a person that:

5057 (A) imports or acquires immediately upon importation into this state special fuel;

5058 (B) produces, refines, manufactures, or blends special fuel in this state;

5059 (C) otherwise acquires for distribution or sale in this state, special fuel with respect to

5060 which there has been no previous taxable sale or use; or

5061 (D) is in a two party exchange where the receiving party is deemed to be the supplier.

5062 (ii) "Supplier" includes a wholesaler that exercises the payment option described in

5063 Section 59-13-321.

5064 (g) "Two party exchange" means a transaction in which special fuel is transferred

5065 between licensed suppliers pursuant to an exchange agreement.

5066 (2) (a) Subject to the other provisions of this Subsection (2), a state sales tax is

5067 imposed on motor fuel and special fuel at a rate of 4.85% of the statewide average rack price,

5068 calculated in accordance with Subsection 59-13-201(1)(b)(ii).

5069 (b) (i) The distributor shall pay the tax on motor fuel.

5070 (ii) The supplier shall pay the tax on special fuel.

5071 (c) (i) Except as provided in Subsection (2)(c)(iii), the provisions of Chapter 13, Part 2,

5072 Motor Fuel, apply to the sales tax imposed by this section on motor fuel.

5073 (ii) Except as provided in Subsection (2)(c)(iii), the provisions of Chapter 13, Part 3,

5074 Special Fuel, apply to the sales tax imposed by this section on special fuel.

5075 (iii) (A) The sales tax rate on motor fuel and special fuel is as provided in this

5076 Subsection (2).

5077 (B) The treasurer shall deposit the revenue collected from the sales tax imposed under

5078 this section into the Transportation Investment Fund of 2005 created in Section 72-2-124.

5079 (C) The commission shall pay any refunds from the Transportation Investment Fund of

5080 2005 created in Section 72-2-124.

5081 (d) The sales and use exemptions described in Section 59-12-104 do not apply to the

5082 sales tax imposed under this section.

5083 Section 45. Section **59-12-1201** is amended to read:

5084 **59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration,**

5085 **collection, and enforcement of tax -- Administrative charge -- Deposits.**

5086 (1) (a) Except as provided in Subsection (3), there is imposed a tax of [~~2.5%~~] 4% on all
5087 short-term leases and rentals of motor vehicles not exceeding 30 days.

5088 (b) The tax imposed in this section is in addition to all other state, county, or municipal
5089 fees and taxes imposed on rentals of motor vehicles.

5090 (2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax
5091 imposed under Subsection (1) shall take effect on the first day of a calendar quarter.

5092 (b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall
5093 take effect on the first day of the first billing period:

5094 (A) that begins after the effective date of the tax rate increase; and

5095 (B) if the billing period for the transaction begins before the effective date of a tax rate
5096 increase imposed under Subsection (1).

5097 (ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax
5098 rate decrease shall take effect on the first day of the last billing period:

5099 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
5100 and

5101 (B) if the billing period for the transaction begins before the effective date of the repeal
5102 of the tax or the tax rate decrease imposed under Subsection (1).

5103 (3) A motor vehicle is exempt from the tax imposed under Subsection (1) if:

5104 (a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

5105 (b) the motor vehicle is rented as a personal household goods moving van; or

5106 (c) the lease or rental of the motor vehicle is made for the purpose of temporarily
5107 replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an
5108 insurance agreement.

5109 (4) (a) (i) The tax authorized under this section shall be administered, collected, and
5110 enforced in accordance with:

5111 (A) the same procedures used to administer, collect, and enforce the tax under Part 1,
5112 Tax Collection; and

5113 (B) Chapter 1, General Taxation Policies.

5114 (ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to
5115 Subsections 59-12-103(4) through (10) or Section 59-12-107.1 or 59-12-123.

(b) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the ~~[revenues]~~ revenue the commission collects from a tax under this part.

(c) Except as provided under Subsection (4)(b), all revenue received by the commission under this section shall be deposited daily with the state treasurer and credited monthly to the Marda Dillree Corridor Preservation Fund under Section 72-2-117.

Section 46. Section **59-13-202** is amended to read:

59-13-202. Refund of tax for agricultural uses on individual income and corporate franchise and income tax returns -- Application for permit for refund -- Division of Finance to pay claims -- Rules permitted to enforce part -- Penalties -- Revenue and Taxation Interim Committee study.

(1) As used in this section:

(a) (i) Except as provided in Subsection (1)(a)(ii), "claimant" means a resident or nonresident person.

(ii) "Claimant" does not include an estate or trust.

(b) "Estate" means a nonresident estate or a resident estate.

(c) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or trust may claim:

(i) as provided by statute; and

(ii) regardless of whether, for the taxable year for which the claimant, estate, or trust claims the tax credit, the claimant, estate, or trust has a tax liability under:

(A) Chapter 7, Corporate Franchise and Income Taxes; or

(B) Chapter 10, Individual Income Tax Act.

(d) "Trust" means a nonresident trust or a resident trust.

(2) Any claimant, estate, or trust that purchases and uses any motor fuel within the state for the purpose of operating or propelling stationary farm engines and self-propelled farm machinery used for nonhighway agricultural uses, and that has paid the tax on the motor fuel as provided by this part, is entitled to a refund of the tax subject to the conditions and limitations provided under this part.

(3) (a) A claimant, estate, or trust desiring a nonhighway agricultural use refund under this part shall claim the refund as a refundable tax credit on the tax return the claimant, estate,

5147 or trust files under:

5148 (i) Chapter 7, Corporate Franchise and Income Taxes; or

5149 (ii) Chapter 10, Individual Income Tax Act.

5150 (b) A claimant, estate, or trust not subject to filing a tax return described in Subsection
5151 (3)(a) shall obtain a permit and file claims on a calendar year basis.

5152 (c) Any claimant, estate, or trust claiming a refundable tax credit under this section is
5153 required to furnish any or all of the information outlined in this section upon request of the
5154 commission.

5155 (d) A refundable tax credit under this section is allowed only on purchases on which
5156 tax is paid during the taxable year covered by the tax return.

5157 (4) In order to obtain a permit for a refund of motor fuel tax paid, an application shall
5158 be filed containing:

5159 (a) the name of the claimant, estate, or trust;

5160 (b) the claimant's, estate's, or trust's address;

5161 (c) location and number of acres owned and operated, location and number of acres
5162 rented and operated, the latter of which shall be verified by a signed statement from the legal
5163 owner;

5164 (d) number of acres planted to each crop, type of soil, and whether irrigated or dry; and

5165 (e) make, size, and type of fuel used and power rating of each piece of equipment using
5166 fuel. If the claimant, estate, or trust is an operator of self-propelled or tractor-pulled farm
5167 machinery with which the claimant, estate, or trust works for hire doing custom jobs for other
5168 farmers, the application shall include information the commission requires and shall all be
5169 contained in, and be considered part of, the original application. The claimant, estate, or trust
5170 shall also file with the application a certificate from the county assessor showing each piece of
5171 equipment using fuel. This original application and all information contained in it constitutes a
5172 permanent file with the commission in the name of the claimant, estate, or trust.

5173 (5) A claimant, estate, or trust claiming the right to a refund of motor fuel tax paid shall
5174 file a claim with the commission by April 15 of each year for the refund for the previous
5175 calendar year. The claim shall state the name and address of the claimant, estate, or trust, the
5176 number of gallons of motor fuel purchased for nonhighway agricultural uses, and the amount
5177 paid for the motor fuel. The claimant, estate, or trust shall retain the original invoice to support

the claim. No more than one claim for a tax refund may be filed annually by each user of motor fuel purchased for nonhighway agricultural uses.

(6) Upon commission approval of the claim for a refund, the Division of Finance shall pay the amount found due to the claimant, estate, or trust. The total amount of claims for refunds shall be paid from motor fuel taxes.

(7) The commission may refuse to accept as evidence of purchase or payment any instruments that show alteration or that fail to indicate the quantity of the purchase, the price of the motor fuel, a statement that the motor fuel is purchased for purposes other than transportation, and the date of purchase and delivery. If the commission is not satisfied with the evidence submitted in connection with the claim, the commission may reject the claim or require additional evidence.

(8) A claimant, estate, or trust aggrieved by the decision of the commission with respect to a refundable tax credit or refund may file a request for agency action, requesting a hearing before the commission.

(9) A claimant, estate, or trust that makes any false claim, report, or statement, as claimant, estate, trust, agent, or creditor, with intent to defraud or secure a refund to which the claimant, estate, or trust is not entitled, is subject to the criminal penalties provided under Section 59-1-401, and the commission shall initiate the filing of a complaint for alleged violations of this part. In addition to these penalties, the claimant, estate, or trust may not receive any refund as a claimant, estate, or trust or as a creditor of a claimant, estate, or trust for refund for a period of five years.

~~[(10)(a) In accordance with any rules prescribed by the commission under Subsection (10)(b), the Division of Finance shall transfer at least annually from the Transportation Fund into the Education Fund an amount equal to the amount of the refund claimed under this section.]~~

~~[(b)]~~ (10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for:

(i) making a refund to a claimant, estate, or trust as required by Subsection (3)(a)(i); or
~~[(ii) making a transfer from the Transportation Fund into the Education Fund as required by Subsection (10)(a); or]~~

~~[(iii)]~~ (ii) enforcing this part.

(11) (a) On or before November 30, 2017, and every three years after 2017, the Revenue and Taxation Interim Committee shall review the tax credit provided by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) In conducting the review required by Subsection (11)(a), the Revenue and Taxation Interim Committee shall:

- (i) schedule time on at least one committee agenda to conduct the review;
- (ii) invite state agencies, individuals, and organizations concerned with the credit under review to provide testimony;
- (iii) ensure that the recommendations described in this section include an evaluation of:
 - (A) the cost of the tax credit to the state;
 - (B) the purpose and effectiveness of the tax credit; and
 - (C) the extent to which the state benefits from the tax credit; and
- (iv) undertake other review efforts as determined by the chairs of the Revenue and Taxation Interim Committee.

Section 47. Section **59-13-323** is enacted to read:

59-13-323. Additional special fuel tax on undyed diesel fuel.

(1) (a) Except as provided in Subsection (1)(b), a supplier shall pay an additional special fuel tax of 10 cents per gallon on undyed diesel fuel.

(b) No special fuel tax is imposed or collected upon dyed diesel fuel that:

(i) is sold or used for any purpose other than to operate or propel a motor vehicle upon the public highways of the state, but this exemption applies only in those cases where the purchasers or the users of special fuel establish to the satisfaction of the commission that the special fuel was used for purposes other than to operate a motor vehicle upon the public highways of the state; or

(ii) is sold to this state or any of its political subdivisions.

(2) (a) The commission shall deposit daily the revenue that the commission collects under this section with the state treasurer.

(b) Notwithstanding Section 59-13-301, the state treasurer shall credit the revenue deposited in accordance with Subsection (2)(a) to the Transportation Investment Fund of 2005 created in Section 72-2-124.

(3) (a) A person entitled to a refund of a special fuel tax under this part may receive a refund of the additional special fuel tax refund due under this section for the same gallons that person is entitled to a refund of a special fuel tax.

(b) Notwithstanding Section 59-13-318, the total amount of claims for refunds under Subsection (3)(a) shall be paid from the Transportation Investment Fund of 2005.

Section 48. Section **63I-2-241** is enacted to read:

63I-2-241. Repeal dates -- Title 41.

Subsection 41-6a-702(5), which allows a vehicle with a clean fuel vehicle decal to travel in a lane designated for the use of high occupancy vehicles regardless of the number of occupants, is repealed September 30, 2025.

Section 49. Section **63I-2-259** is amended to read:

63I-2-259. Repeal dates -- Title 59.

~~[(1) Section 59-1-102 is repealed on May 14, 2019.]~~

~~[(2)]~~ (1) In Section 59-2-926, the language that states "applicable" and "or 53F-2-301.5" is repealed July 1, 2023.

~~[(3) Subsection 59-2-1007(15) is repealed on December 31, 2018.]~~

(2) Subsections 59-12-102(62) and (63), which define "life science establishment" and "life science research and development facility," are repealed January 1, 2027.

(3) Subsection 59-12-104(61), which provides a sales and use tax exemption related to amounts paid or charged for construction materials used in the construction of a life science research and development facility, is repealed January 1, 2027.

Section 50. Section **63I-2-272** is amended to read:

63I-2-272. Repeal dates -- Title 72.

(1) Subsections 72-1-213(2) and (3)(a)(i), related to the Road Usage Charge Advisory Committee, are repealed January 1, 2022.

~~[(2) On July 1, 2018:]~~

~~[(a) in Subsection 72-2-108(2), the language that states "and except as provided in Subsection (10)" is repealed; and]~~

~~[(b) in Subsection 72-2-108(4)(c)(ii)(A), the language that states "excluding any amounts appropriated as additional support for class B and class C roads under Subsection (10)," is repealed.]~~

[~~(3)~~] (2) Section 72-3-113 is repealed January 1, 2020.

(3) Section 72-6-121 is repealed September 30, 2025.

Section 51. Section **63M-4-702** is amended to read:

63M-4-702. Refiner gasoline standard reporting -- Office of Energy Development certification of sales and use tax exemption eligibility.

(1) (a) Beginning on July 1, 2021, a refiner that seeks to be eligible for a sales and use tax exemption under Subsection 59-12-104[~~(86)~~](72) shall annually report to the office whether the refiner's facility that is located within the state will have an average gasoline sulfur level of 10 parts per million (ppm) or less using the formulas prescribed in 40 C.F.R. Sec. 80.1603, excluding the offset for credit use and transfer as prescribed in 40 C.F.R. Sec. 80.1616.

(b) Fuels for which a final destination outside Utah can be demonstrated or that are not subject to the standards and requirements of 40 C.F.R. Sec. 80.1603 as specified in 40 C.F.R. Sec. 80.1601 are not subject to the reporting provisions under Subsection (1)(a).

(2) (a) Beginning on July 1, 2021, the office shall annually certify that the refiner is eligible for the sales and use tax exemption under Subsection 59-12-104[~~(86)~~](72):

(i) on a form provided by the State Tax Commission that shall be retained by the refiner claiming the sales and use tax exemption under Subsection 59-12-104[~~(86)~~](72);

(ii) if the refiner's refinery that is located within the state had an average sulfur level of 10 parts per million (ppm) or less as reported under Subsection (1) in the previous calendar year; and

(iii) before a taxpayer is allowed the sales and use tax exemption under Subsection 59-12-104[~~(86)~~](72).

(b) The certification provided by the office under Subsection (2)(a) shall be renewed annually.

(c) The office:

(i) shall accept a copy of a report submitted by a refiner to the Environmental Protection Agency under 40 C.F.R. Sec. 80.1652 as sufficient evidence of the refiner's average gasoline sulfur level; or

(ii) may establish another reporting mechanism through rules made under Subsection (3).

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules to implement this section.

Section 52. Section **72-1-201** is amended to read:

72-1-201. Creation of Department of Transportation -- Functions, powers, duties, rights, and responsibilities.

(1) There is created the Department of Transportation which shall:

(a) have the general responsibility for planning, research, design, construction, maintenance, security, and safety of state transportation systems;

(b) provide administration for state transportation systems and programs;

(c) implement the transportation policies of the state;

(d) plan, develop, construct, and maintain state transportation systems that are safe, reliable, environmentally sensitive, and serve the needs of the traveling public, commerce, and industry;

(e) establish standards and procedures regarding the technical details of administration of the state transportation systems as established by statute and administrative rule;

(f) advise the governor and the Legislature about state transportation systems needs;

(g) coordinate with utility companies for the reasonable, efficient, and cost-effective installation, maintenance, operation, relocation, and upgrade of utilities within state highway rights-of-way;

(h) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for the administration of the department, state transportation systems, and programs;

(i) jointly with the commission annually report to the Transportation Interim Committee, by November 30 of each year, as to the operation, maintenance, condition, mobility, and safety needs for state transportation systems;

(j) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department; ~~and~~

(k) study and make recommendations to the Legislature on potential managed lane use and implementation on selected transportation systems within the state[-]; and

(l) implement one or more strategies to manage congestion on state highways and generate highway user fees, including the use of one or more high occupancy toll lanes as defined in Section 72-6-118 and implementation of the technology described in Subsection 72-6-118(2)(e).

(2) (a) The department shall exercise reasonable care in designing, constructing, and maintaining a state highway in a reasonably safe condition for travel.

(b) Nothing in this section shall be construed as:

(i) creating a private right of action; or

(ii) expanding or changing the department's common law duty as described in Subsection (2)(a) for liability purposes.

Section 53. Section **72-1-213.1** is amended to read:

72-1-213.1. Road usage charge program.

(1) As used in this section:

(a) "Account manager" means an entity under contract with the department to administer and manage the road usage charge program.

(b) "Alternative fuel vehicle" means the same as that term is defined in Section 41-1a-102.

(c) "Payment period" means the interval during which an owner is required to report mileage and pay the appropriate road usage charge according to the terms of the program.

(d) "Program" means the road usage charge program established and described in this section.

(2) There is established a road usage charge program as described in this section.

(3) (a) The department shall implement and oversee the administration of the program, which shall begin on January 1, 2020.

(b) To implement and administer the program, the department may contract with an account manager.

(4) (a) The owner or lessee of an alternative fuel vehicle may apply for enrollment of the alternative fuel vehicle in the program.

(b) If an application for enrollment into the program is approved by the department, the

owner or lessee of an alternative fuel vehicle may participate in the program in lieu of paying the fee described in Subsection 41-1a-1206(1)(h) or (2)(b).

(5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, the department:

(i) shall make rules to establish:

(A) processes and terms for enrollment into and withdrawal or removal from the program;

(B) payment periods and other payment methods and procedures for the program;

(C) standards for mileage reporting mechanisms for an owner or lessee of an alternative fuel vehicle to report mileage as part of participation in the program;

(D) standards for program functions for mileage recording, payment processing, account management, and other similar aspects of the program;

(E) contractual terms between an owner or lessee of an alternative fuel vehicle owner and an account manager for participation in the program;

(F) contractual terms between the department and an account manager, including authority for an account manager to enforce the terms of the program;

(G) procedures to provide security and protection of personal information and data connected to the program, and penalties for account managers for violating privacy protection rules;

(H) penalty procedures for a program participant's failure to pay a road usage charge or tampering with a device necessary for the program; and

(I) department oversight of an account manager, including privacy protection of personal information and access and auditing capability of financial and other records related to administration of the program; and

(ii) may make rules to establish:

(A) an enrollment cap for certain alternative fuel vehicle types to participate in the program;

(B) a process for collection of an unpaid road usage charge or penalty; or

(C) integration of the program with other similar programs, such as tolling.

(b) The department shall make recommendations to and consult with the commission regarding road usage mileage rates for each type of alternative fuel vehicle.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, the commission shall, after consultation with the department, make rules to establish the road usage charge mileage rate for each type of alternative fuel vehicle.

(7) (a) Revenue generated by the road usage charge program and relevant penalties shall be deposited into the Transportation Fund.

(b) The department may use revenue generated by the program to cover the costs of administering the program.

(8) (a) The department may:

(i) (A) impose a penalty for failure to timely pay a road usage charge according to the terms of the program or tampering with a device necessary for the program; and

(B) request that the Division of Motor Vehicles place a hold on the registration of the owner's or lessee's alternative fuel vehicle for failure to pay a road usage charge according to the terms of the program;

(ii) send correspondence to the owner of an alternative fuel vehicle to inform the owner or lessee of:

(A) the road usage charge program, implementation, and procedures;

(B) an unpaid road usage charge and the amount of the road usage charge to be paid to the department;

(C) the penalty for failure to pay a road usage charge within the time period described in Subsection (8)(a)(iii); and

(D) a hold being placed on the owner's or lessee's registration for the alternative fuel vehicle, if the road usage charge and penalty are not paid within the time period described in Subsection (8)(a)(iii), which would prevent the renewal of the alternative fuel vehicle's registration; and

(iii) require that the owner or lessee of the alternative fuel vehicle pay the road usage charge to the department within 30 days of the date when the department sends written notice of the road usage charge to the owner or lessee.

(b) The department shall send the correspondence and notice described in Subsection (8)(a) to the owner of the alternative fuel vehicle according to the terms of the program.

(9) (a) The Division of Motor Vehicles and the department shall share and provide access to information pertaining to an alternative fuel vehicle and participation in the program

5426 including:

5427 (i) registration and ownership information pertaining to an alternative fuel vehicle;

5428 (ii) information regarding the failure of an alternative fuel vehicle owner or lessee to

5429 pay a road usage charge or penalty imposed under this section within the time period described

5430 in Subsection (8)(a)(iii); and

5431 (iii) the status of a request for a hold on the registration of an alternative fuel vehicle.

5432 (b) If the department requests a hold on the registration in accordance with this section,

5433 the Division of Motor Vehicles may not renew the registration of a motor vehicle under Title

5434 41, Chapter 1a, Part 2, Registration, until the department withdraws the hold request.

5435 (10) The owner of an alternative fuel vehicle may apply for enrollment in the program

5436 or withdraw from the program according to the terms established by the department pursuant to

5437 rules made under Subsection (5).

5438 (11) If enrolled in the program, the owner or lessee of an alternative fuel vehicle shall:

5439 (a) report mileage driven as required by the department pursuant to Subsection (5);

5440 (b) pay the road usage fee for each payment period as set by the department and the

5441 commission pursuant to Subsections (5) and (6); and

5442 (c) comply with all other provisions of this section and other requirements of the

5443 program.

5444 (12) On or before October 1 of each year, the department shall submit an electronic

5445 report to a legislative committee designated by the Legislative Management Committee that:

5446 (a) describes the amount of revenue generated by the program during the preceding

5447 fiscal year; and

5448 (b) recommends strategies for expanding enrollment in the program.

5449 Section 54. Section **72-2-120** is amended to read:

5450 **72-2-120. Tollway Special Revenue Fund -- Revenue.**

5451 (1) There is created a special revenue fund within the Transportation Fund known as

5452 the "Tollway Special Revenue Fund."

5453 (2) The fund shall be funded from the following sources:

5454 (a) tolls collected by the department under Section 72-6-118;

5455 (b) funds received by the department through a tollway development agreement under

5456 Section 72-6-203;

5457 (c) appropriations made to the fund by the Legislature;
5458 (d) contributions from other public and private sources for deposit into the fund;
5459 (e) interest earnings on cash balances; and
5460 (f) money collected for repayments and interest on fund money.

5461 (3) The Division of Finance may create a subaccount for each tollway as defined in
5462 Section 72-6-118.

5463 (4) The commission may authorize the money deposited into the fund to be spent by
5464 the department [~~to establish and operate tollways and related facilities and state transportation~~
5465 ~~systems, including design, construction, reconstruction, operation, maintenance, enforcement,~~
5466 ~~impacts from tollways, and the acquisition of right-of-way]~~ for any state transportation
5467 purpose.

5468 Section 55. Section **72-2-124** is amended to read:

5469 **72-2-124. Transportation Investment Fund of 2005.**

5470 (1) There is created a capital projects fund entitled the Transportation Investment Fund
5471 of 2005.

5472 (2) The fund consists of money generated from the following sources:

5473 (a) any voluntary contributions received for the maintenance, construction,
5474 reconstruction, or renovation of state and federal highways;

5475 (b) appropriations made to the fund by the Legislature;

5476 (c) registration fees designated under Section 41-1a-1201;

5477 (d) the sales and use tax revenues deposited into the fund in accordance with [~~Section~~
5478 ~~59-12-103; and~~] Sections 59-12-103 and 59-12-130;

5479 (e) the additional special fuel tax revenues deposited into the fund in accordance with
5480 Section 59-13-323; and

5481 [~~(e)~~] (f) revenues transferred to the fund in accordance with Section 72-2-106.

5482 (3) (a) The fund shall earn interest.

5483 (b) All interest earned on fund money shall be deposited into the fund.

5484 (4) (a) Except as provided in Subsection (4)(b), the executive director may only use
5485 fund money to pay:

5486 (i) the costs of maintenance, construction, reconstruction, or renovation to state and
5487 federal highways prioritized by the Transportation Commission through the prioritization

5488 process for new transportation capacity projects adopted under Section 72-1-304;

5489 (ii) the costs of maintenance, construction, reconstruction, or renovation to the highway

5490 projects described in Subsections 63B-18-401(2), (3), and (4);

5491 (iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401

5492 minus the costs paid from the County of the First Class Highway Projects Fund in accordance

5493 with Subsection 72-2-121(4)(f);

5494 (iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt

5495 Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified

5496 by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the

5497 debt service on \$30,000,000 of the revenue bonds issued by Salt Lake County;

5498 (v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101

5499 for projects prioritized in accordance with Section 72-2-125;

5500 (vi) all highway general obligation bonds that are intended to be paid from revenues in

5501 the Centennial Highway Fund created by Section 72-2-118;

5502 (vii) for fiscal year 2015-16 only, to transfer \$25,000,000 to the County of the First

5503 Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described

5504 in Section 72-2-121; and

5505 (viii) if a political subdivision provides a contribution equal to or greater than 40% of

5506 the costs needed for construction, reconstruction, or renovation of paved pedestrian or paved

5507 nonmotorized transportation for projects that:

5508 (A) mitigate traffic congestion on the state highway system;

5509 (B) are part of an active transportation plan approved by the department; and

5510 (C) are prioritized by the commission through the prioritization process for new

5511 transportation capacity projects adopted under Section 72-1-304.

5512 (b) The executive director may use fund money to exchange for an equal or greater

5513 amount of federal transportation funds to be used as provided in Subsection (4)(a).

5514 (5) (a) Except as provided in Subsection (5)(b), the executive director may not use fund

5515 money, including fund money from the Transit Transportation Investment Fund, within the

5516 boundaries of a municipality that is required to adopt a moderate income housing plan element

5517 as part of the municipality's general plan as described in Subsection 10-9a-401(3), if the

5518 municipality has failed to adopt a moderate income housing plan element as part of the

municipality's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii).

(b) Within the boundaries of a municipality that is required under Subsection 10-9a-401(3) to plan for moderate income housing growth but has failed to adopt a moderate income housing plan element as part of the municipality's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

(i) may use fund money in accordance with Subsection (4)(a) for a limited-access facility;

(ii) may not use fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may use Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not use Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(6) (a) Except as provided in Subsection (6)(b), the executive director may not use fund money, including fund money from the Transit Transportation Investment Fund, within the boundaries of the unincorporated area of a county, if the county is required to adopt a moderate income housing plan element as part of the county's general plan as described in Subsection 17-27a-401(3) and if the county has failed to adopt a moderate income housing plan element as part of the county's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii).

(b) Within the boundaries of the unincorporated area of a county where the county is required under Subsection 17-27a-401(3) to plan for moderate income housing growth but has failed to adopt a moderate income housing plan element as part of the county's general plan or has failed to implement the requirements of the moderate income housing plan as determined

5550 by the results of the Department of Workforce Service's review of the annual moderate income
5551 housing report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

5552 (i) may use fund money in accordance with Subsection (4)(a) for a limited-access
5553 facility;

5554 (ii) may not use fund money for the construction, reconstruction, or renovation of an
5555 interchange on a limited-access facility;

5556 (iii) may use Transit Transportation Investment Fund money for a multi-community
5557 fixed guideway public transportation project; and

5558 (iv) may not use Transit Transportation Investment Fund money for the construction,
5559 reconstruction, or renovation of a station that is part of a fixed guideway public transportation
5560 project.

5561 (7) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued
5562 in any fiscal year, the department and the commission shall appear before the Executive
5563 Appropriations Committee of the Legislature and present the amount of bond proceeds that the
5564 department needs to provide funding for the projects identified in Subsections 63B-18-401(2),
5565 (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

5566 (b) The Executive Appropriations Committee of the Legislature shall review and
5567 comment on the amount of bond proceeds needed to fund the projects.

5568 (8) The Division of Finance shall, from money deposited into the fund, transfer the
5569 amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by
5570 Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or
5571 sinking fund.

5572 (9) (a) There is created in the Transportation Investment Fund of 2005 the Transit
5573 Transportation Investment Fund.

5574 (b) The fund shall be funded by:

5575 (i) contributions deposited into the fund in accordance with Section 59-12-103;

5576 (ii) appropriations into the account by the Legislature;

5577 (iii) private contributions; and

5578 (iv) donations or grants from public or private entities.

5579 (c) (i) The fund shall earn interest.

5580 (ii) All interest earned on fund money shall be deposited into the fund.

(d) Subject to Subsection (9)(e), the Legislature may appropriate money from the fund for public transit capital development of new capacity projects to be used as prioritized by the commission.

(e) (i) The Legislature may only appropriate money from the fund for a public transit capital development project or pedestrian or nonmotorized transportation project that provides connection to the public transit system if the public transit district or political subdivision provides funds of equal to or greater than 40% of the costs needed for the project.

(ii) A public transit district or political subdivision may use money derived from a loan granted pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, to provide all or part of the 40% requirement described in Subsection (9)(e)(i) if:

(A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund; and

(B) the proposed capital project has been prioritized by the commission pursuant to Section 72-1-303.

Section 56. Section **72-6-118** is amended to read:

72-6-118. Definitions -- Establishment and operation of tollways -- Imposition and collection of tolls -- Amount of tolls -- Rulemaking.

(1) As used in this section:

(a) (i) Before January 1, 2023, "high occupancy toll lane" means a high occupancy vehicle lane designated under Section 41-6a-702 that may be used by an operator of a vehicle carrying less than the number of persons specified for the high occupancy vehicle lane if the operator of the vehicle pays a toll or fee.

(ii) On or after January 1, 2023, "high occupancy toll lane" means a high occupancy vehicle lane designated under Section 41-6a-702 that may be used by an operator of a vehicle only if:

(A) the vehicle is carrying three or more occupants; or

(B) the operator pays a toll or fee.

(b) "Toll" means any tax, fee, or charge assessed for the specific use of a tollway.

(c) "Toll lane" means a designated new highway or additional lane capacity that is constructed, operated, or maintained for which a toll is charged for its use.

(d) (i) "Tollway" means a highway, highway lane, bridge, path, tunnel, or right-of-way

5612 designed and used as a transportation route that is constructed, operated, or maintained through
5613 the use of toll revenues.

5614 (ii) "Tollway" includes a high occupancy toll lane and a toll lane.

5615 (e) "Tollway development agreement" has the same meaning as defined in Section
5616 72-6-202.

5617 (2) Subject to the provisions of Subsection (3), the department may:

5618 (a) establish, expand, and operate tollways and related facilities for the purpose of
5619 funding in whole or in part the acquisition of right-of-way and the design, construction,
5620 reconstruction, operation, enforcement, and maintenance of or impacts from a transportation
5621 route for use by the public;

5622 (b) enter into contracts, agreements, licenses, franchises, tollway development
5623 agreements, or other arrangements to implement this section;

5624 (c) impose and collect tolls on any tollway established under this section, including
5625 collection of past due payment of a toll or penalty;

5626 (d) grant exclusive or nonexclusive rights to a private entity to impose and collect tolls
5627 pursuant to the terms and conditions of a tollway development agreement;

5628 (e) use technology to automatically monitor a tollway and collect payment of a toll,
5629 including:

5630 (i) license plate reading technology; and

5631 (ii) photographic or video recording technology; and

5632 (f) in accordance with Subsection (5), request that the Division of Motor Vehicles deny
5633 a request for registration of a motor vehicle if the motor vehicle owner has failed to pay a toll
5634 or penalty imposed for usage of a tollway involving the motor vehicle for which registration
5635 renewal has been requested.

5636 (3) (a) The department may establish or operate a tollway on an existing highway if
5637 approved by the commission in accordance with the terms of this section.

5638 (b) To establish a tollway on an existing highway, the department shall submit a
5639 proposal to the commission including:

5640 (i) a description of the tollway project;

5641 (ii) projected traffic on the tollway;

5642 (iii) the anticipated amount of the toll to be charged; and

5643 (iv) projected toll revenue.

5644 (4) (a) For a tollway established under this section, the department may:

5645 (i) according to the terms of each tollway, impose the toll upon the owner of a motor

5646 vehicle using the tollway according to the terms of the tollway;

5647 (ii) send correspondence to the owner of the motor vehicle to inform the owner of:

5648 (A) an unpaid toll and the amount of the toll to be paid to the department;

5649 (B) the penalty for failure to pay the toll timely; and

5650 (C) a hold being placed on the owner's registration for the motor vehicle if the toll and

5651 penalty are not paid timely, which would prevent the renewal of the motor vehicle's

5652 registration;

5653 (iii) require that the owner of the motor vehicle pay the toll to the department within 30

5654 days of the date when the department sends written notice of the toll to the owner; and

5655 (iv) impose a penalty for failure to pay a toll timely.

5656 (b) The department shall mail the correspondence and notice described in Subsection

5657 (4)(a) to the owner of the motor vehicle according to the terms of a tollway.

5658 (5) (a) The Division of Motor Vehicles and the department shall share and provide

5659 access to information pertaining to a motor vehicle and tollway enforcement including:

5660 (i) registration and ownership information pertaining to a motor vehicle;

5661 (ii) information regarding the failure of a motor vehicle owner to timely pay a toll or

5662 penalty imposed under this section; and

5663 (iii) the status of a request for a hold on the registration of a motor vehicle.

5664 (b) If the department requests a hold on the registration in accordance with this section,

5665 the Division of Motor Vehicles may not renew the registration of a motor vehicle under Title

5666 41, Chapter 1a, Part 2, Registration, if the owner of the motor vehicle has failed to pay a toll or

5667 penalty imposed under this section for usage of a tollway involving the motor vehicle for which

5668 registration renewal has been requested until the department withdraws the hold request.

5669 (6) (a) Except as provided in Subsection (6)(b), in accordance with Title 63G, Chapter

5670 3, Utah Administrative Rulemaking Act, the commission shall:

5671 (i) set the amount of any toll imposed or collected on a tollway on a state highway; and

5672 (ii) for tolls established under Subsection (6)(b), set:

5673 (A) an increase in a toll rate or user fee above an increase specified in a tollway

5674 development agreement; or

5675 (B) an increase in a toll rate or user fee above a maximum toll rate specified in a
5676 tollway development agreement.

5677 (b) A toll or user fee and an increase to a toll or user fee imposed or collected on a
5678 tollway on a state highway that is the subject of a tollway development agreement shall be set
5679 in the tollway development agreement.

5680 (7) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
5681 the department shall make rules:

5682 (i) necessary to establish and operate tollways on state highways;

5683 (ii) that establish standards and specifications for automatic tolling systems and
5684 automatic tollway monitoring technology; and

5685 (iii) to set the amount of a penalty for failure to pay a toll under this section.

5686 (b) The rules shall:

5687 (i) include minimum criteria for having a tollway; and

5688 (ii) conform to regional and national standards for automatic tolling.

5689 (8) (a) The commission may provide funds for public or private tollway pilot projects
5690 or high occupancy toll lanes from General Fund money appropriated by the Legislature to the
5691 commission for that purpose.

5692 (b) The commission may determine priorities and funding levels for tollways
5693 designated under this section.

5694 (9) (a) Except as provided in Subsection (9)(b), all revenue generated from a tollway
5695 on a state highway shall be deposited into the Tollway Special Revenue Fund created in
5696 Section 72-2-120 and used for ~~[acquisition of right-of-way and the design, construction,~~
5697 ~~reconstruction, operation, maintenance, enforcement of state transportation systems and~~
5698 ~~facilities, including operating improvements to the tollway, and other facilities used exclusively~~
5699 ~~for the operation of a tollway facility within the corridor served by the tollway]~~ any state
5700 transportation purpose.

5701 (b) Revenue generated from a tollway that is the subject of a tollway development
5702 agreement shall be deposited into the Tollway Special Revenue Fund and used in accordance
5703 with Subsection (9)(a) unless:

5704 (i) the revenue is to a private entity through the tollway development agreement; or

(ii) the revenue is identified for a different purpose under the tollway development agreement.

(10) Data described in Subsection (2)(e) obtained for the purposes of this section:

(a) in accordance with Section 63G-2-305, is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act, if the photographic or video data is maintained by a governmental entity;

(b) may not be used or shared for any purpose other than the purposes described in this section;

(c) may only be preserved:

(i) so long as necessary to collect the payment of a toll or penalty imposed in accordance with this section; or

(ii) pursuant to a warrant issued under the Utah Rules of Criminal Procedure or an equivalent federal warrant; and

(d) may only be disclosed:

(i) in accordance with the disclosure requirements for a protected record under Section 63G-2-202; or

(ii) pursuant to a warrant issued under the Utah Rules of Criminal Procedure or an equivalent federal warrant.

(11) (a) The department may not sell for any purpose photographic or video data captured under Subsection (2)(e)(ii).

(b) The department may not share captured photographic or video data for a purpose not authorized under this section.

~~[(12) Before November 1, 2018, the Driver License Division, the Division of Motor Vehicles, and the department shall jointly study and report findings and recommendations to the Transportation Interim Committee regarding the use of Title 53, Chapter 3, Part 6, Drivers' License Compact, and other methods to collect a toll or penalty under this section from:]~~

~~[(a) an owner of a motor vehicle registered outside this state; or]~~

~~[(b) a driver or lessee of a motor vehicle leased or rented for 30 days or less.]~~

Section 57. Section **72-9-603** is amended to read:

72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned vehicle title restrictions -- Rules for maximum rates and certification.

5736 (1) Except for a tow truck service that was ordered by a peace officer, or a person
5737 acting on behalf of a law enforcement agency, or a highway authority, after performing a tow
5738 truck service that is being done without the vehicle, vessel, or outboard motor owner's
5739 knowledge, the tow truck operator or the tow truck motor carrier shall:

5740 (a) immediately upon arriving at the place of storage or impound of the vehicle, vessel,
5741 or outboard motor:

5742 (i) send a report of the removal to the Motor Vehicle Division that complies with the
5743 requirements of Subsection 41-6a-1406(4)(b); and

5744 (ii) contact the law enforcement agency having jurisdiction over the area where the
5745 vehicle, vessel, or outboard motor was picked up and notify the agency of the:

5746 (A) location of the vehicle, vessel, or outboard motor;

5747 (B) date, time, and location from which the vehicle, vessel, or outboard motor was
5748 removed;

5749 (C) reasons for the removal of the vehicle, vessel, or outboard motor;

5750 (D) person who requested the removal of the vehicle, vessel, or outboard motor; and

5751 (E) description, including the identification number, license number, or other
5752 identification number issued by a state agency, of the vehicle, vessel, or outboard motor;

5753 (b) within two business days of performing the tow truck service under Subsection
5754 (1)(a), send a certified letter to the last-known address of each party described in Subsection
5755 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor obtained from the
5756 Motor Vehicle Division or, if the person has actual knowledge of the party's address, to the
5757 current address, notifying the party of the:

5758 (i) location of the vehicle, vessel, or outboard motor;

5759 (ii) date, time, and location from which the vehicle, vessel, or outboard motor was
5760 removed;

5761 (iii) reasons for the removal of the vehicle, vessel, or outboard motor;

5762 (iv) person who requested the removal of the vehicle, vessel, or outboard motor;

5763 (v) a description, including its identification number and license number or other
5764 identification number issued by a state agency; and

5765 (vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor; and

5766 (c) upon initial contact with the owner whose vehicle, vessel, or outboard motor was

5767 removed, provide the owner with a copy of the Utah Consumer Bill of Rights Regarding
5768 Towing established by the department in Subsection (7)(e).

5769 (2) (a) Until the tow truck operator or tow truck motor carrier reports the removal as
5770 required under Subsection (1)(a), a tow truck operator, tow truck motor carrier, or impound
5771 yard may not:

5772 (i) collect any fee associated with the removal; or

5773 (ii) begin charging storage fees.

5774 (b) (i) Except as provided in Subsection (2)(c), a tow truck operator or tow truck motor
5775 carrier may not perform a tow truck service without the vehicle, vessel, or outboard motor
5776 owner's or a lien holder's knowledge at either of the following locations without signage that
5777 meets the requirements of Subsection (2)(b)(ii):

5778 (A) a mobile home park as defined in Section 57-16-3; or

5779 (B) a multifamily dwelling of more than eight units.

5780 (ii) Signage under Subsection (2)(b)(i) shall display:

5781 (A) where parking is subject to towing; and

5782 (B) (I) the Internet website address that provides access to towing database information
5783 in accordance with Section 41-6a-1406; or

5784 (II) one of the following:

5785 (Aa) the name and phone number of the tow truck operator or tow truck motor carrier
5786 that performs a tow truck service for the locations listed under Subsection (2)(b)(i); or

5787 (Bb) the name of the mobile home park or multifamily dwelling and the phone number
5788 of the mobile home park or multifamily dwelling manager or management office that
5789 authorized the vehicle, vessel, or outboard motor to be towed.

5790 (c) Signage is not required under Subsection (2)(b) for parking in a location:

5791 (i) that is prohibited by law; or

5792 (ii) if it is reasonably apparent that the location is not open to parking.

5793 (d) Nothing in Subsection (2)(b) restricts the ability of a mobile home park as defined
5794 in Section 57-16-3 or a multifamily dwelling from instituting and enforcing regulations on
5795 parking.

5796 (3) The party described in Subsection 41-6a-1406(5)(a) with an interest in a vehicle,
5797 vessel, or outboard motor lawfully removed is only responsible for paying:

5798 (a) the tow truck service and storage fees set in accordance with Subsection (7); ~~[and]~~
5799 (b) the administrative impound fee set in Section 41-6a-1406, if applicable[-]; and
5800 (c) the applicable sales and use tax.

5801 (4) (a) The fees under Subsection (3) are a possessory lien on the vehicle, vessel, or
5802 outboard motor and any nonlife essential items contained in the vehicle, vessel, or outboard
5803 motor that are owned by the owner of the vehicle, vessel, or outboard motor until paid.

5804 (b) The tow truck operator or tow truck motor carrier shall securely store the vehicle,
5805 vessel, or outboard motor and items described in Subsection (4)(a) in an approved state
5806 impound yard until a party described in Subsection 41-6a-1406(5)(a) with an interest in the
5807 vehicle, vessel, or outboard motor:

5808 (i) pays the ~~[fees]~~ amounts described in Subsection (3); and

5809 (ii) removes the vehicle, vessel, or outboard motor from the state impound yard.

5810 (5) (a) A vehicle, vessel, or outboard motor shall be considered abandoned if a party
5811 described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard
5812 motor does not, within 30 days after notice has been sent under Subsection (1)(b):

5813 (i) pay the ~~[fees]~~ amounts described in Subsection (3); and

5814 (ii) remove the vehicle, vessel, or outboard motor from the secure storage facility.

5815 (b) A person may not request a transfer of title to an abandoned vehicle, vessel, or
5816 outboard motor until at least 30 days after notice has been sent under Subsection (1)(b).

5817 (6) (a) A tow truck motor carrier or impound yard shall clearly and conspicuously post
5818 and disclose all its current fees, rates, and acceptable forms of payment for tow truck service
5819 and storage of a vehicle in accordance with rules established under Subsection (7).

5820 (b) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept
5821 payment by cash and debit or credit card for a tow truck service under Subsection (1) or any
5822 service rendered, performed, or supplied in connection with a tow truck service under
5823 Subsection (1).

5824 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5825 department shall:

5826 (a) subject to the restriction in Subsection (8), set maximum rates that:

5827 (i) a tow truck motor carrier may charge for the tow truck service of a vehicle, vessel,
5828 or outboard motor that are transported in response to:

5829 (A) a peace officer dispatch call;
5830 (B) a motor vehicle division call; and
5831 (C) any other call or request where the owner of the vehicle, vessel, or outboard motor
5832 has not consented to the removal; and
5833 (ii) an impound yard may charge for the storage of a vehicle, vessel, or outboard motor
5834 stored as a result of one of the conditions listed under Subsection (7)(a)(i);
5835 (b) establish authorized towing certification requirements, not in conflict with federal
5836 law, related to incident safety, clean-up, and hazardous material handling;
5837 (c) specify the form and content of the posting and disclosure of fees and rates charged
5838 and acceptable forms of payment by a tow truck motor carrier or impound yard;
5839 (d) set a maximum rate for an administrative fee that a tow truck motor carrier may
5840 charge for reporting the removal as required under Subsection (1)(a)(i) and providing notice of
5841 the removal to each party described in Subsection 41-6a-1406(5)(a) with an interest in the
5842 vehicle, vessel, or outboard motor as required in Subsection (1)(b); and
5843 (e) establish a Utah Consumer Bill of Rights Regarding Towing form that contains
5844 specific information regarding:
5845 (i) a vehicle owner's rights and responsibilities if the owner's vehicle is towed;
5846 (ii) identifies the maximum rates that a tow truck motor carrier may charge for the tow
5847 truck service of a vehicle, vessel, or outboard motor that is transported in response to a call or
5848 request where the owner of the vehicle, vessel, or outboard motor has not consented to the
5849 removal; and
5850 (iii) identifies the maximum rates that an impound yard may charge for the storage of
5851 vehicle, vessel, or outboard motor that is transported in response to a call or request where the
5852 owner of the vehicle, vessel, or outboard motor has not consented to the removal.
5853 (8) An impound yard may not charge a fee for the storage of an impounded vehicle,
5854 vessel, or outboard motor if:
5855 (a) the vehicle, vessel, or outboard motor is being held as evidence; and
5856 (b) the vehicle, vessel, or outboard motor is not being released to a party described in
5857 Subsection 41-6a-1406(5)(a), even if the party satisfies the requirements to release the vehicle,
5858 vessel, or outboard motor under Section 41-6a-1406.
5859 (9) (a) (i) A tow truck motor carrier may charge a rate up to the maximum rate set by

5860 the department in rules made under Subsection (7).

5861 (ii) In addition to the maximum rates established under Subsection (7) [~~and when~~
5862 ~~receiving payment by credit card~~], a tow truck operator, a tow truck motor carrier, or an
5863 impound yard:

5864 (A) shall collect the sales and use tax due; and

5865 (B) when receiving payment by credit card, may charge a credit card processing fee of
5866 3% of the transaction total.

5867 (b) A tow truck motor carrier may not be required to maintain insurance coverage at a
5868 higher level than required in rules made pursuant to Subsection (7).

5869 (10) When a tow truck motor carrier or impound lot is in possession of a vehicle,
5870 vessel, or outboard motor as a result of a tow service that was performed without the consent of
5871 the owner, and that was not ordered by a peace officer or a person acting on behalf of a law
5872 enforcement agency, the tow truck motor carrier or impound yard shall make personnel
5873 available:

5874 (a) by phone 24 hours a day, seven days a week; and

5875 (b) to release the impounded vehicle, vessel, or outboard motor to the owner within
5876 one hour of when the owner calls the tow truck motor carrier or impound yard.

5877 Section 58. **Repealer.**

5878 This bill repeals:

5879 Section **53F-9-304, Underage Drinking Prevention Program Restricted Account.**

5880 Section **59-12-104.4, Seller recordkeeping for purposes of higher education**
5881 **textbook exemption -- Rulemaking authority.**

5882 Section 59. **Appropriation.**

5883 Subsection 60 (a). **Transfers to Unrestricted Funds.**

5884 The Legislature authorizes the State Division of Finance to transfer the following
5885 amounts to the unrestricted General Fund, Education, or Uniform School Fund, as indicated,
5886 from the restricted funds or accounts indicated. Expenditures and outlays from the General
5887 Fund, Education Fund, or Uniform School Fund must be authorized by an appropriation.

5888 ITEM 1

5889 To General Fund, One-time

5890 From Education Fund Restricted --

5891 Underage Drinking Restricted Account \$1,750,000

5892 Schedule of Programs:

5893 General Fund \$1,750,000

5894 The Legislature intends that the State Division of Finance transfer all remaining in the

5895 Underage Drinking Prevention Program Restricted Account to the General Fund at the close of

5896 fiscal year 2020.

5897 Subsection 60 (b). **Fiscal Year 2021 Appropriations.**

5898 The following sums of money are appropriated for the fiscal year beginning July 1,

5899 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for

5900 fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures

5901 Act, the Legislature appropriates the following sums of money from the funds or accounts

5902 indicated for the use and support of the government of the state of Utah.

5903 ITEM 1

5904 To State Board of Education -- Child Nutrition

5905 From Education Fund \$55,500,000

5906 From Dedicated Credits -- Liquor Tax (\$55,500,000)

5907 ITEM 2

5908 To State Board of Education -- State Administrative Office

5909 From Education Fund \$2,850,000

5910 From Education Fund Restricted --

5911 Underage Drinking Prevention Program Restricted Account (\$2,850,000)

5912 ITEM 3

5913 To University of Utah -- Education and General

5914 From General Fund \$101,608,900

5915 From Education Fund (\$101,608,900)

5916 ITEM 4

5917 To University of Utah -- School of Medicine

5918 From General Fund \$35,899,500

5919 From Education Fund (\$35,899,500)

5920 ITEM 5

5921 To University of Utah -- University Hospital

5922	<u>From General Fund</u>	<u>\$1,533,000</u>
5923	<u>From Education Fund</u>	<u>(\$1,533,000)</u>
5924	<u>ITEM 6</u>	
5925	<u>To University of Utah -- School of Dentistry</u>	
5926	<u>From General Fund</u>	<u>\$2,324,700</u>
5927	<u>From Education Fund</u>	<u>(\$2,324,700)</u>
5928	<u>ITEM 7</u>	
5929	<u>To Utah State University -- Education and General</u>	
5930	<u>From General Fund</u>	<u>\$73,521,400</u>
5931	<u>From Education Fund</u>	<u>(\$73,521,400)</u>
5932	<u>ITEM 8</u>	
5933	<u>To Utah State University -- USU-Eastern Education and General</u>	
5934	<u>From General Fund</u>	<u>\$12,503,400</u>
5935	<u>From Education Fund</u>	<u>(\$12,503,400)</u>
5936	<u>ITEM 9</u>	
5937	<u>To Weber State University -- Education and General</u>	
5938	<u>From General Fund</u>	<u>\$94,098,000</u>
5939	<u>From Education Fund</u>	<u>(\$94,098,000)</u>
5940	<u>ITEM 10</u>	
5941	<u>To Southern Utah University -- Education and General</u>	
5942	<u>From General Fund</u>	<u>\$47,444,900</u>
5943	<u>From Education</u>	<u>(\$47,444,900)</u>
5944	<u>ITEM 11</u>	
5945	<u>To Utah Valley University -- Education and General</u>	
5946	<u>From General Fund</u>	<u>\$123,845,700</u>
5947	<u>From Education Fund</u>	<u>(\$123,845,700)</u>
5948	<u>ITEM 12</u>	
5949	<u>To Snow College -- Education and General</u>	
5950	<u>From General Fund</u>	<u>\$25,910,100</u>
5951	<u>From Education</u>	<u>(\$25,910,100)</u>
5952	<u>ITEM 13</u>	

5953 To Dixie State University -- Education and General
 5954 From General Fund \$40,660,400
 5955 From Education Fund (\$40,660,400)
 5956 ITEM 14
 5957 To Utah Department of Transportation -- Joint Highway Committee
 5958 From Transportation Fund \$5,000,000
 5959 Schedule of Programs:
 5960 Non-urban Road Improvements \$5,000,000
 5961 The Legislature intends that the Utah Department of Transportation allocate the
 5962 appropriation under this item for road improvements in counties with populations of less than
 5963 11,000.
 5964 **Section 60. Effective date.**
 5965 (1) Except as provided in Subsections (2) and (3), if approved by two-thirds of all the
 5966 members elected to each house, this bill takes effect on January 1, 2020.
 5967 (2) If approved by two-thirds of all the members elected to each house, the actions
 5968 affecting the following sections take effect for a taxable year beginning on or after January 1,
 5969 2020:
 5970 (a) Section 35A-9-214;
 5971 (b) Section 59-7-104;
 5972 (c) Section 59-7-201;
 5973 (d) Section 59-7-610;
 5974 (e) Section 59-7-614.1;
 5975 (f) Section 59-7-618;
 5976 (g) Section 59-7-620;
 5977 (h) Section 59-10-104;
 5978 (i) Section 59-10-105;
 5979 (j) Section 59-10-529.1
 5980 (k) Section 59-10-1007;
 5981 (l) Section 59-10-1017;
 5982 (m) Section 59-10-1017.1;
 5983 (n) Section 59-10-1018;

- 5984 (o) Section 59-10-1019;
 5985 (p) Section 59-10-1022;
 5986 (q) Section 59-10-1023;
 5987 (r) Section 59-10-1028;
 5988 (s) Section 59-10-1033;
 5989 (t) Section 59-10-1035;
 5990 (u) Section 59-10-1041;
 5991 (v) Section 59-10-1102.1;
 5992 (w) Section 59-10-1105;
 5993 (x) Section 59-10-1113;
 5994 (y) Section 59-10-1114;
 5995 (z) Section 59-10-1403.3; and
 5996 (aa) Section 59-13-202.
 5997 (3) The actions affecting the following sections take effect on April 1, 2020:
 5998 (a) Section 15A-1-204;
 5999 (b) Section 26-36b-208;
 6000 (c) Section 59-1-1503;
 6001 (d) Section 59-12-102;
 6002 (e) Section 59-12-103;
 6003 (f) Section 59-12-104;
 6004 (g) Section 59-12-104.5;
 6005 (h) Section 59-12-108;
 6006 (i) Section 59-12-130;
 6007 (j) Section 59-12-1201;
 6008 (k) Section 59-13-323;
 6009 (l) Section 63M-4-702; and
 6010 (m) Section 72-2-124.
 6011 **Section 61. Retrospective operation.**
 6012 If this bill is approved by less than two-thirds of all the members elected to each house,
 6013 the actions affecting the following sections have retrospective operation for a taxable year
 6014 beginning on or after January 1, 2020:

- 6015 (1) Section 35A-9-214;
- 6016 (2) Section 59-7-104;
- 6017 (3) Section 59-7-201;
- 6018 (4) Section 59-7-610;
- 6019 (5) Section 59-7-614.1;
- 6020 (6) Section 59-7-618;
- 6021 (7) Section 59-7-620;
- 6022 (8) Section 59-10-104;
- 6023 (9) Section 59-10-105;
- 6024 (10) Section 59-10-529.1
- 6025 (11) Section 59-10-1007;
- 6026 (12) Section 59-10-1017;
- 6027 (13) Section 59-10-1017.1;
- 6028 (14) Section 59-10-1018;
- 6029 (15) Section 59-10-1019;
- 6030 (16) Section 59-10-1022;
- 6031 (17) Section 59-10-1023;
- 6032 (18) Section 59-10-1028;
- 6033 (19) Section 59-10-1033;
- 6034 (20) Section 59-10-1035;
- 6035 (21) Section 59-10-1041;
- 6036 (22) Section 59-10-1102.1;
- 6037 (23) Section 59-10-1105;
- 6038 (24) Section 59-10-1113;
- 6039 (25) Section 59-10-1114;
- 6040 (26) Section 59-10-1403.3; and
- 6041 (27) Section 59-13-202.